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THE DEVELOPMENT OF THE EXECUTIVE POWER IN GERMANY

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The broad use of the "dictatorial" powers granted by the German constitution to the president and the widespread popular demand for constitutional and administrative reform are the two dominant themes of political discussion in Germany today. Both are centered in the problem of what place the executive power occupies, and should occupy, in the German constitutional order. In this age of dictatorship and national concentration, the question is by no means peculiar to Germany. But the German situation contains a number of unusual features which it is the object of this paper to make more vivid and understandable. To this end, I shall first sketch the earlier history of a rather independent executive, then show the place of the executive power in the ordinary parliamentary system of the Weimar constitution, and finally discuss the emergence of a more independent executive under the presidential emergency power.

I. HISTORICAL SIGNIFICANCE OF AN INDEPENDENT EXECUTIVE POWER IN GERMANY

The constitutional history of the several German states, as well as of the national state, is characterized by the dualism of executive and legislative powers which was considered the essence of constitutional monarchy—a form of government which also existed in Belgium and Holland and in France until 1848. Under this type of government, formally the monarch was still considered the ultimate source of power. The idea of a separation of powers was disparaged, because it was supposed to be inextricably related to the rights of man and of popular sovereignty. Thus the *Charte Con-*

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stitutionnelle of Louis XVIII (1814) is built upon a separation of powers in fact and a denial of the separation of powers in theory. "Although all authority in France resides in the person of the king, our predecessors have not hesitated to alter the exercise thereof in accordance with the change of times. . . . Only the supreme authority can give to institutions which it establishes the strength, permanence, and majesty with which it is itself invested. . . ." In these words the preamble reasserts the *plenitudo potestatis* of old; and it should not be overlooked that this constitution speaks of authority, rather than power. In the same spirit, the charter is granted: "We have voluntarily, and by the free exercise of our royal authority, accorded and do accord, grant, and concede to our subjects, as well for us as for our successors forever, the constitutional charter which follows." But when we come to the actual organization of government, we find the separation of powers, though not that of authority, recognized in fact. Article 13 says that to the king alone belongs the executive power. This proposition is elaborated upon in Article 14 in the usual way, and in strict consonance with Montesquieu's *pouvoir exécutrice*, which is modelled after Locke's federative power. Article 15, on the other hand, vests the exercise of the legislative power in the king, the Chamber of Peers, and the Chamber of Deputies collectively. Finally, Article 58 makes the judges irremovable, although they are appointed by the king, who, as Article 57 declares rhetorically, is the person from whom all justice emanates. These articles, if compared with those of the American federal constitution, seem to disclose a considerable analogy. The king, however, proved to be less successful in maintaining his power than the American president. Upon the general notion that the ministers are responsible—the constitution does not say to whom—was eventually built the practice of parliamentary responsibility, which gradually reduced the king to the rôle of a neutral and moderating power—a development which has been set forth admirably by M. Barthélemy.[1] A similar evolution transformed the constitutional monarchies of Belgium and Holland into parliamentary monarchies.

Somewhat different was the evolution of the constitutional monarchies in Germany. Here the actual separation of powers was adhered to even more strictly, while general declarations which

[1] *L'introduction du régime parlementaire en France sous Louis XVIII et Charles X* (1904).

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seemed to maintain the absolute authority of the monarch went even farther than the French Constitutional Charter of 1814. Thus the constitution of Bavaria (1818) states in the preamble: "We Maximilian Joseph by God's grace king of Bavaria. . . . The present constitution based upon careful and wide consultation is the work of our free and firm will." Similarly, Article 2 asserts: "The king is the head of the state, unites in himself all the rights of the power of government (*Staatsgewalt*), and exercises these powers according to the provisions set down by this constitution, but given by himself. His person is venerable and inviolable." We have here a clear enunciation of the famous doctrine of auto-limitation;[2] for the constitution proceeds to separate the powers. It confers, in Article 7, the essential legislative and financial powers upon the Estates Assembly (Diet). It sets up an independent judiciary which has even final jurisdiction over the constitution, although, like the French Charter, it asserts that the jurisdiction "emanates" from the king. Finally, it binds the king to the constitution by a solemn oath: "I swear to govern according to the constitution and the laws of the realm, so help me God and his Holy Scriptures" (Art. 10). This constitution has nothing to say, however, regarding the responsibility of ministers; this was provided for after the uprising of 1848. We have here, then, a rather definite and strict "separation of powers" between the king as executive, the estates as legislature, and the courts as the judicial power.[3]

A very similar constitution was promulgated in Württemberg, a kingdom which had always retained elements of its representative constitution of the sixteenth century. The Württemberg constitution is particularly noteworthy for its elaborate provisions for a constitutional court (*Staatsgerichtshof*). Here, too, we find a theoretical reassertion of the royal *plenitudo potestatis*, limited by a partly elective and independent legislative establishment and an equally independent judiciary. But, unlike the development in

[2] The German word is *Selbstbeschränkung*. Regarding this notion, see Ihering, *Der Zweck im Recht*, and Georg Jellinek, *Allgemeine Staatslehre*. For an English commentary, I recommend the admirable chapter in Rupert Emerson's *State and Sovereignty in Modern Germany*, pp. 59 ff.

[3] Cf., regarding all this, R. Oeshey, *Die Bayerische Verfassungsurkunde vom 26. Mai 1818 und die Charte Ludwigs XVIII vom 4. Juni 1814* (1914), and M. Doeberl, *Ein Jahrhundert bayerischen Verfassungslebens* (1918). That a really independent judiciary did not come into existence until 1861 is pointed out on p. 116. For an extensive, though rather controversial, constitutional interpretation, see Max Seydel's *Bayerisches Staatsrecht*.

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France, in these monarchies the separation of powers became the bulwark behind which the executive establishment directed by the monarch entrenched itself against the rising tide of legislative pretentions. In this endeavor, they were greatly aided by the extraordinarily deep-rooted service traditions of the bureaucracy, who, together with the army, continued to form the government "above the people and all parties."

The neglected responsibility of ministers became a bone of contention in the revolutionary upheavals of 1848–49, and constitutional amendments were passed providing for general responsibility and requiring the countersignature of a minister for each act of the king. Yet this responsibility did not amount to parliamentary responsibility. Article 7 of the Bavarian constitutional amendment expresses the situation well: "If a minister considers a particular act to be contrary to law, or detrimental to the country's welfare, he is obliged to reject said act, or to refuse his countersignature, giving his reasons in writing."[4] True to the pattern of an earlier stage of parliamentary development, the *Ständestaat*,[5] we find the diets invested with the power of impeaching the ministers before a special court (*Staatsgerichtshof*), in Bavaria composed of the presiding judge and six associate judges of the highest court, twelve lay-arbiters, and a secretary.[6] The type of responsibility envisaged in these provisions could perhaps be characterized as functional; its peculiar possibilities are seen to best advantage at present in the workings of the Swiss government and administration.[7]

A similar evolution can be observed in the constitutional law of Prussia. The Prussian common law provisions had in 1794 already codified some fundamental aspects of the slowly evolving idea of functional responsibility of the civil service.[8] Baron vom Stein soon

[4] Gesetz vom 4. Juni 1848, die Verantwortlichkeit der Minister betreffend (in *Bayern's Gesetze und Gesetzbücher*, Vol. 6, p. 1 ff.).

[5] Concerning this stage, see my *Johannes Althusius' Politica* p. xxx ff. and the literature cited there.

[6] Gesetz vom 30. März 1850, den Staatsgerichtshof und das Verfahren bei Anklagen gegen Minister betreffend (pp. 4 ff.).

[7] See C. J. Friedrich and Taylor Cole, *Responsible Bureaucracy; A Study of the Swiss Civil Service* (Cambridge, 1932), Vol. I of *Studies in Systematic Political Science and Comparative Government.*

[8] See, for these provisions, C. J. Friedrich, "The German and the Prussian Civil Service," in Leonard D. White (ed.), *The Civil Service in the Modern State*, p. 412 f. The antecedent period of development is discussed admirably in Walter L. Dorn,

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thereafter, in the period of the Napoleonic wars, worked out plans for setting up a parliamentary government, but only the year 1848 forced the long-promised constitution upon the Prussian monarch. Under its provisions, a structure similar to that of Bavaria was created, envisaging a legal responsibility of the ministers for royal acts through countersignature, enforced by the possibility of impeachment.[9]

When considering these arrangements, we are obliged to conclude that the constitutional monarchies of Germany were in their structure modelled upon the separation of powers as we find it in the United States and in republics built upon her model. Two striking and important differences must, however, be noted. On the one hand, we have an arrangement which is palpably outside the separation of powers altogether, namely, the fact that the executive establishment is headed by an hereditary king. On the other hand, we find that the king together with the parliament, or representative assembly, exercises the legislative functions. From a formal point of view, this arrangement is a violation of the principle of the separation of powers, but so is the veto power of the American president. It is obviously unnecessary to emphasize for American readers that the principle of checks and balances accompanies the principle of the separation of powers. During the public discussion over the Constitution, this was made very clear, and an occasional voice pointed out that the principle's real meaning is that the several powers should not be completely blended.[10]

In these constitutional monarchies, however, the participation of the executive in legislation has had a more far-reaching significance than in the United States because the executive has traditionally drafted most legislation. It is well known that this is true not only of Prussia and Bavaria, but of France and England as well, and yet only the recent interest in the problems of legislation has led to an appreciation of the profound significance of this tradition.

"The Prussian Bureaucracy in the Eighteenth Century," *Political Science Quarterly*, September, 1931, pp. 403 ff., March, 1932, pp. 77 ff., and June, 1932, pp. 258 ff.

[9] See, for these and other aspects, C. Bornhak, *Preussisches Verfassungsrecht* (1888). The English accounts of this structure do not show any appreciation of the point here urged. They are all written from the point of view of an uncritical acceptance of English parliamentary government as *the* ideal form of government. Even most American writers have fallen prey to this convenient stereotype, and have failed to notice the analogies with the structure of the United States.

[10] J. Elliott, *Debates on the Federal Constitution*, Vol. IV, pp. 120 f.

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It cannot be denied that such a separation of powers finds the executive establishment on the whole more than a match for the legislative establishment, but it is absurd to speak of states with such a structure as absolute monarchies; for the monarch is a legally constituted and legally limited executive in the same sense in which the American president is while he is in office. In a democratic age, he is likely to encounter greater difficulty than the president, because the latter can, in a controversy with the legislature, point to his own popular election. This observation leads us, however, right up to the contemporary German situation. Before we enter upon a discussion of its various aspects, we must make two further points.

In the first place, the analysis here given has been obscured for a long time by the fact that Bismarck in the period of conflict was able to assume dictatorial powers. But would any one, in the light of post-war developments, be willing to deny that any type of representative structure is apt to give way to more authoritarian rule in times of national emergency? Ebert's rule during the time of the Ruhr invasion, Poincaré's rule during the collapse of the franc, MacDonald's national government, not to speak of Hindenburg's exercise of his constitutional emergency powers, which will occupy us later in more detail—all these transformations show that even in times of peace a national emergency will call forth executive leadership in more or less dictatorial forms.[11] It may not be amiss to remind American scholars of the situation at the time of the American Civil War. It is significant that notions are now reappearing similar to those which were then current in the United States. Said Alfred E. Smith recently: "Now I say and I've said all along that in a depression we're in a state of war. . . . And what does a democracy do in war? It becomes a tyrant, a despot, a real monarch. . . ."[12] Here it is frankly asserted that dictatorship is the natural concomitant of democracy in times of stress and strain.

The German Empire, on the other hand, was not meant to be a democracy. Its constitution retained the separation of powers traditional in the German constitutional monarchies. This led to

[11] Lindsay Rogers was, therefore, quite correct when he discussed Wilson's leadership during the war as "Presidential Dictatorship in the United States," *Quarterly Review* (1919).

[12] Associated Press despatches, Feb. 8, 1933.

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not been the usual cause for the resignation of German cabinets. This has usually resulted from the breakup of the coalition upon which the cabinet had been based.[14] However, the second Marx cabinet was voted out of office according to the provisions of this article, but by the combined vote of the Nationalists and the Social Democrats, who had, of course, no intention of forming a new cabinet together. It became at once apparent that situations of this kind might raise very serious difficulties. The majority pronouncing its lack of confidence is heterogeneous, and often different for different questions. It has been concluded that the real intention of this second sentence of Article 54 was not, and could never have been, to make it possible for purely obstructionist minorities of radically different views to get together for the mere purpose of destroying a government without any intention whatever of forming a new one, and that therefore a vote of confidence cannot have the effect provided for in the constitution, if the vote of no-confidence is an act of pure obstruction.[15] This interpretation has been rejected by others, even though they approved of the idea as an amendment to the constitution.[16] However, it is generally agreed that even though the cabinet must resign after a vote of no-confidence, the president has not only the right, but the duty, to appoint the resigned cabinet as "acting cabinet" (*Geschäftsregierung* or *geschäftsführende Regierung*) until a new cabinet has been formed. It is, moreover, generally admitted that such an "acting cabinet," can countersign a decree dissolving the parliament,[17] for such an acting cabinet has the same rights and duties as a normal cabinet. If, therefore, the vote of no-confidence which took place in the German Reichstag on September 12, 1932, was valid, as is maintained by some, denied by others,[18] all that the president need

[14] Thoma, *op. cit.*, p. 506.

[15] Schmitt, *Verfassungslehre*, pp. 344 f.

[16] Anschütz, p. 322, and Thoma, *op. cit.*, p. 511. See also Wolgast, *Zum deutschen Parlamentarismus*, pp. 70 ff. and 77 ff. Thoma suggests that Article 54 be amended to require that the vote of no-confidence be sustained by a uniform set of reasons (*einheitlich begründet*).

[17] Anschütz, pp. 323 f.

[18] The controversy turned essentially upon two points—one a question of fact: "Had the chancellor asked for the floor before the vote started?"; the other a question of law: "Does the provision of Article 33, paragraph 3, which provides that 'at their request the representatives of the cabinet shall be heard during the deliberations, and the representatives of the National Cabinet shall be heard even outside the regular order of business' mean that a member of the cabinet can even interrupt a vote which is already in process of being taken? These questions were aired in the Standing Com-

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an amazingly complex structure in which the chief executive was a composite. It consisted of the emperor and the several German princes as united in the Federal Council (*Bundesrat*), represented by high officials from the various state civil services as "ambassadors." Amongst these, the Prussian prime minister, representing the Prussian king-emperor, occupied the most important place. This found expression in the fact that he was chancellor of the Empire as well. As long as Bismarck, sure of the support of his royal master, occupied this extraordinary post, the weakness of Germany's composite "chief executive" did not become apparent. But no sooner had he been ousted, than the power of the legislative branch began to loom up. Although official circles tried to belittle the rising tide of legislative influence, a detailed study of pre-war German politics reveals a gradual shift of influence, until at last in 1908 the Reichstag was able to force the resignation of the Bülow ministry, and, during the war, eclipse the chancellor altogether.

II. THE EXECUTIVE POWER IN THE PARLIAMENTARY SYSTEM UNDER THE CONSTITUTION OF 1919—ADVANTAGES AND LIMITATIONS

The parliamentary system established by the Weimar constitution rests upon Article 54: "The chancellor and the ministers require the confidence of parliament for the administration of their office. Each of them must resign if parliament by formal vote withdraws its confidence." The first sentence of this article repeats what a law of October 28, 1918, had already provided, thus carrying on the development which we have just surveyed. It was the general opinion of constitutional lawyers in Germany that this article meant that the president is not permitted to nominate to the post of chancellor or minister any person of whom it may be assumed that he does not possess the confidence of the parliament, i.e., that he would be forced immediately to resign.[13] But this does not mean that the failure of the parliament to pass a vote of confidence would oblige a cabinet to resign, although Stresemann did so under such circumstances on November 23, 1923. This interpretation was expressly stated in the committee on rules of the parliament on October 15, 1924. Still, a vote of no-confidence has

[13] See Gerhard Anschütz, *Die Verfassung des deutschen Reichs vom 11. August 1919*, 14th ed., first half [hereafter cited as Anschütz], p. 319. Cf. Richard Thoma, "Die rechtliche Stellung des parlamentarischen Regierungssystems," in *Handbuch des deutschen Staatsrechts* (ed. Gerhard Anschütz und Richard Thoma), Vol. I, pp. 503 ff., and Carl Schmitt, *Verfassungslehre* (1928), §§ 24–27.

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have done was to reappoint the chancellor as acting chancellor, and all would have been well. Such acting cabinets have formed the governments of many German states (*Länder*) in recent years. An acting cabinet remains, of course, fully responsible for all its acts.[19]

What has been said so far shows that the system of coalition cabinets which is the inevitable result of a multiple party system tends to break down when the extremist parties on both sides of the house gain an absolute majority, although as long as the extremes are not too strong, it tends to provide a rather stable government, shifting from center right to center left, and eliminating the extremes altogether. Now it is well-known that this German multiple party system is based upon a list system of proportional representation. Accordingly, much criticism of proportional representation is, in view of the recent difficulties, being aired in Germany at the present time. The most searching critical examination of proportional representation has produced an understanding of the value of elections for the purpose of welding the amorphous "people" into a whole.[20] But grave doubts have been voiced as to the possibility of accomplishing such an end where the religious and class distinctions are as sharply drawn as they are in Germany.[21]

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mittee for the Protection of the Rights of the Representatives of the People (Article 35). The opinion prevailed that, as Anschütz (p. 215) expresses it, the cabinet members are heard only during the deliberations, but not after their conclusion, which would oblige one to deny the right of the chancellor to demand the floor after the voting had begun. This focuses full attention upon the first question of fact, and the committee passed a resolution on September 27, 1932, as follows: "The Committee states as a fact, upon the basis of the evidence before it as a committee of inquiry regarding the events in the meeting of September 12, 1932: 'Chancellor von Papen had demanded the floor only *after* the vote had been started by the president of parliament. The acts of the president of Parliament complied with the constitution and the rules of procedure of parliament. The chancellor could have demanded the floor in time.'" See, for this, *Frankfurter Zeitung*, September 28, 1932.

[19] See the decision of the Court of State (*Staatsgerichtshof*) of November 21, 1925, RGZ, Vol. 112, p. 5 f. Regarding this court itself, see Lammers, *Das Gesetz, über den Staatsgerichtshof*, and C. J. Friedrich, "The Issue of Judicial Review in Germany," *Political Science Quarterly*, XLIII, p. 188 ff. (1928).

[20] See Rudolf Smend, *Festgabe der Bonner juristischen Fakultät für Karl Bergbohm* p. 283 f. Smend has elaborated upon the problem of "integration" in its various aspects in his magistral *Verfassung und Verfassungsrecht*. The general importance of integration has always been more readily realized in English-speaking countries; the particular problems of representation have been insisted upon with persuasive lucidity by A. Lawrence Lowell, especially in his *Public Opinion in War and Peace*.

[21] Carl Schmitt (*Verfassungslehre* pp. 228 ff.) insists upon the need of homogeneity, and points out that earlier democratic thought (Aristotle, Levellers, Rousseau, etc.) always presupposed such homogeneity. In his later study, *Der Hüter der Verfassung*

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It is well-known that even in England the future of representative democracy is threatened by class antagonism. In trying to combat this class antagonism, Lord Balfour said: "It is evident that our whole political machinery presupposes a people so fundamentally at one that they can safely afford to bicker." That the English people are still so fundamentally at one has been questioned recently by eminent authority; and in this matter of homogeneity, asking the question amounts almost to answering it.[22] When the man in the street is being transformed into the class-conscious proletarian, the essential foundation of democracy, a homogeneous people, tends to disappear, and democracy with it. This is the underlying difficulty which must never be lost sight of when one considers the problems of representative democracy in Germany at the present time, and it goes without saying that all questions concerning the electoral system are of basic significance. Article 22 of the German constitution provides for proportional representation; it does not provide for the list system which is at present used.[23] But this list system was adopted by unanimous vote at the time, and this means that, due to the German tradition of tacit legislative amendments to the constitution,[24] this law could be, and has been, claimed as constitutional legislation (indirect constitutional amendment). In spite of all the criticisms levelled against proportional representation at the present time, it would seem that a people so pronouncedly heterogeneous as the German people now are would have to retain some system of proportional representa-

(1931), he develops the implications for Germany, particularly pp. 73 ff. Kelsen's polemic, "Wer soll der Hüter der Verfassung sein?," *Die Justiz*, Vol. VI, pp. 576 ff., misses this point by taking the homogeneity for granted.

[22] See Harold J. Laski, "The Present Position of Representative Democracy," in this REVIEW, Vol. 26, pp. 629 ff.

[23] It was set up by the electoral law of April 27, 1920 (RGB1, p. 627), changed in details by laws of October 24, 1922 (RGB1, p. 801), Dec. 31, 1923 (RGB1, 1924, p. 40), and March 13, 1924 (RGB1, p. 173). The system is described concisely in William B. Munro, *The Governments of Europe*, pp. 631 ff. The constitutionality of this law has been contested before the Court of State, and has been affirmed; see RGZ, Vol. 128, p. 1 ff. and Vol. 130, p. 18 ff.

[24] See, regarding this, Anschütz, pp. 401 ff. Since 1924, the resulting uncertainty as to what is constitutional law is somewhat lessened by the practice of indicating the constitutional amending nature by the addition to the proclaiming preamble: ". . . after it has been ascertained that the requirements of legislation amending the constitution have been fulfilled for . . . ." See, regarding this whole problem, Karl Lowenstein, *Erscheinungsformen der Verfassungsänderung* (1931), particularly pp. 30 ff., 47 ff., 56 ff.

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tion, in order to provide adequate opportunity for significant minorities to present their views. This means, however, that serious doubts arise regarding the desirability of making the executive dependent upon his ability to placate a majority in the legislature, no matter how composed.

These difficulties are enhanced by the fact that Germany has arisen from a federation of states, and of very unequal states at that. These states had been autonomous constitutional monarchies with strong civil services, as we have shown above, and these independent civil services remained intact after the formation of the federal union of the old Reich. Although the fact is known, insufficient attention has been given by political scientists in this country to the peculiar nature of the National Council (*Reichsrat*), whose real function is to integrate these several civil services and permit them to participate in the legislation of the Reich. Unless one keeps in mind in this connection the traditional rôle of the executive in Europe of drafting most legislation—to which I have already referred—it is not possible to realize the importance of this Council even today. For this Council is not composed of permanent members divided according to party alignments, as is the Senate in the United States, but consists of one permanent representative who looks upon himself as an ambassador from his state, and of constantly changing civil servants of the several states who come and go according to the legislation which is being considered.[25] It is a natural consequence that almost the entire work of the Council is done in its committees, and this in turn means that the Council is a much more distinctly federal body than it appears to be; for Article 62 provides that no state shall have more than one vote in each of the Council's committees. The profound significance of these provisions may be gleaned from the fact that Article 60 expressly states that this Council is to represent the states not only in the legislation, but in the administration, of the Reich. As a consequence, the Council has played an important rôle whenever the presidential emergency powers under Article 48 discussed below have come into play. The Council, too,

[25] See, for the most recent discussion, *Das Problem des Reichsrats* (1930), published by the Bund zur Erneuerung des Reiches. The most searching analysis is found in Carl Bilfinger, *Der Einfluss der Einzelstaaten auf die Bildung des Reichswillens* (1923) and the same author's contribution to the *Handbuch des deutschen Staatsrechts*, Vol. I, §§ 46, 47.

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may be said to be the outcome of the incomplete homogeneity of the German people; for its basis is a representation of governments, and where these governments are minority governments in the several states, they partake of this "unrepresentative" quality. This possibility of minority governments has aggravated the difficulties which the state of Prussia presents to the organization of German federalism. To be sure, the constitution of 1919 has greatly reduced the control of Prussia over the Council, by not allowing any one state more than two-fifths of the votes, and by further breaking up the Prussian votes between the central and the provincial administrations.[26] And yet, the existence of minority governments in both the national and the Prussian realm produced a serious clash which led to the forcible removal of the Prussian (left) government by the president, and the appointment of a national commissary for Prussia in the person of the chancellor. The Prussian government thereupon appealed to the Court of State, which decided—to anticipate in part a later discussion—that such a commissary could be appointed by the president, but that the government could not be removed, and that therefore the Prussian delegation to the National Council should be instructed by the lawful government and not by the commissary.[27] But with these questions we are in the midst of the problem of the presidential emergency power, its use and abuse.

III. THE EMERGENCE OF A MORE INDEPENDENT EXECUTIVE UNDER THE PRESIDENTIAL EMERGENCY POWER

The emergency power of the German president and his cabinet is established under Article 48 of the constitution of 1919.[28] Hugo

[26] Article 63. See, regarding this, Hummel, *Preussen und seine Provinzen im Reichsrat* (1928), and the literature cited in Anschütz for this article.

[27] For the bearing of this decision upon Article 48, see below, p. 201. The constitutional issues involved in this controversy are very complex. Its federal aspect necessitates separate treatment. Cf. Carl Schmitt, "Die Verfassungsmässigkeit der Bestellung eines Reichskommissars für das Land Preussen," *Deutsche Juristenzeitung*, August 1, 1932; Walter Jellinek, "Zum Konflikt zwischen Preussen und dem Reich," *Reichsverwaltungsblatt*, August 27, 1932; and Hans Nawiasky, "Die gegenseitigen Rechtsverhältnisse von Reich und Ländern bei der Handhabung des Art. 48 der Reichsverfassung," *ibid.*, August 6, 1932.

[28] See, for an earlier discussion, Carl Joachim Friedrich, "Dictatorship in Germany?" *Foreign Affairs* (1930), and the literature cited there. The important historical and systematic study *Die Diktatur*, by Carl Schmitt, will be published soon in a translation by F. M. Watkins. The essential points of the present writer's essay have apparently not been considered by Lindsay Rogers, Sanford Schwarz, and

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Preuss and others were quite explicit in desiring such emergency powers for the chief executive, in order to supplement, and even supersede, the ordinary legislative regulation of national concerns. It was the prevailing opinion of the committee which drafted the constitution that during the period of civil disturbances following the end of the war and the making of the new constitution the president should be given fairly wide discretion. When an independent Socialist member of the Convention protested against the threat to property rights involved in such extraordinary powers, Preuss sarcastically remarked that in times when the private property of citizens included machine guns it would be desirable not to insist upon due process.[29] Dr. Ablass, who was reporter of this section of the constitution, said: "This power goes very far. But when we consider the events of these days, we shall find that this power is born out of the emergency of our time. It gives to the president a strong weapon which we cannot renounce under any circumstances. I welcome this strengthening of the presidential power most heartily."[30] The events to which Dr. Ablass alludes are the war and the violent revolutionary upheavals consequent upon it, particularly the barricade fighting between communists and the government during the

Nicholas Kaltschas, in their recent article, "German Political Institutions—Article 48," in *Political Science Quarterly*, Vol. 57, pp. 576 ff. With all due regard to the learning of the several authors (and it does not appear who has done what), I cannot help feeling that their approach to the general questions involved in the use of Article 48 is not entirely satisfactory, and that a certain amount of "liberal" prejudice has crept into their analysis. For example, the impression is conveyed to the reader that a presidential government is not "republican," and that it is an "interregnum"—a misinterpretation which one might expect in England, but is surprised to encounter in the United States, particularly in view of what has been said above, p. 190. Again, the article's argument seems to suggest that it was the German president's fault that no majority could be formed in the Reichstag. But is that true? As far as I know, it is contrary to the prevailing opinion of those best informed that "there were negotiations for a cabinet which might be formed by a mock marriage of Centrists and Hitlerites, but the president forbade the banns." It seems to me unfortunate to reproduce such temporary back-stage gossip in scholarly work. Even if the assertion were correct, the president would deserve commendation for his action; as the official justice of the peace, he is not meant by the constitution to condone such a companionate marriage. However, apart from these general observations, the aforementioned article contains a very valuable analysis of the actual use made of Article 48, and in considerable detail. Compare also Herbert Kraus, *The Crisis of German Democracy*, Chap. IX and p. 71 ff. The German literature is very extensive. See, for an admirable summary of the literature and prevailing opinion, Anschütz, *op. cit.*, pp. 267 ff.

[29] See my "Dictatorship in Germany?" *Foreign Affairs* (1930).

[30] In the constitutional committee. See Vol. 336, p. 233.

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winter of 1918–19. The two most important sentences of this article read as follows: "If public safety and order in the German Reich is seriously disturbed or threatened, the president may take the necessary measures to restore public safety and order, and, if necessary, intervene with the aid of armed force. . . . On demand of the parliament (Reichstag), these measures shall be revoked."[31] The emergency power here conferred is not exercised by the president alone. Any acts taken under this grant of power require the countersignature of the chancellor or one of the other members of the cabinet.[32] This is rather important, because it explains why the president in times of emergency must insist upon a cabinet which has his confidence, and which will, therefore, coöperate loyally with him. If it is true that in normal times the cabinet is responsible to the Reichstag, and not to the president, it is not true in times of emergency. On the other hand, if one wishes to speak of dictatorship, one ought to speak of group dictatorship. Recent events have shown how important it is not to lose sight of this aspect of the situation. Nor is it wise to belittle the Reichstag's power to demand the revocation of such emergency measures.[33] To be sure, the president may reënact the revoked ordinance, as he did in 1930, and dissolve the Reichstag at the same time.[34] He may also dissolve the Reichstag because it becomes apparent that his ordinances will be disapproved by the Reichstag.[35] But precisely because the president and his cabinet have to dissolve the parliament, a certain consideration of the parliamentary reaction recom-

[31] "Der Reichspräsident kann, wenn im Deutschen Reiche die öffentliche Sicherheit und Ordnung erheblich gestört oder gefährdet wird, die zur Wiederherstellung der öffentlichen Sicherheit und Ordnung nötigen Massnahmen treffen, erforderlichenfalls mit Hilfe der bewaffneten Macht einschreiten. . . . Die Massnahmen sind auf Verlangen des Reichstags ausser Kraft zu setzen." See Anschütz, pp. 267 ff.

[32] See Article 50 of the constitution.

[33] This seems to be the tendency of Lindsay Rogers in the article cited, p. 581. At any rate, it does not become sufficiently clear that the Reichstag has this power. The phrase "formal approval is not necessary," is misleading. Politically, the power to disapprove is more important.

[34] This he did on July 26, 1930, see RGB1, I, p. 311 ff. This ordinance contains minor additions to the decree of July 16, 1932 (RGB1, pp. 207 ff. and 212 ff.), revoked by the ordinance of July 18, 1930 (RGB1 p. 223). The legality of his action was confirmed by the National Judicial Court in a criminal case decided in Oct., 1931. See RGS, Vol. 65, p. 364.

[35] This happened on September 12, 1932. See above, pp. 192. The decree for the dissolution stated frankly that it was being ordered "because of the danger that the Reichstag may demand the revocation of the emergency ordinance."

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mends itself to the government. This is quite generally known. In the first place, such dissolution can take place only once for the same cause, and although the president's own discretion determines what constitutes the "same cause," it is obvious that he will try to avoid palpably unconstitutional acts, for political as well as constitutional reasons.[36] In the second place, an election which increases the size of the parliamentary opposition, or at least maintains it, puts strong pressure upon the president to change his cabinet, or at least his chancellor. This was clearly the result of the elections of November of last year. The protracted negotiations with the National Socialists must at least in part be viewed in this light. Therefore, it cannot be doubted that the Reichstag's power to demand the revocation of presidential emergency ordinances is, in an exceptional state, the mainstay of a legislative check upon the executive.

This check brings us to the question of who decides when an exceptional state has arisen. Formally, the decision is a matter of presidential discretion. In reality, the right to demand the revocation of emergency ordinances gives the Reichstag enough power to make it a matter of paramount importance that it be convinced of the existence of the exceptional state. Moreover, the provision of Article 67 that the National Council shall be kept informed by the government departments of the conduct of national affairs, and that of Article 60, which says that the Council shall represent the states in national legislation and administration, render it equally important that the Council be convinced that an exceptional state has arisen.[37] The serious obstacles which the president and his cabinet will run up against if they neglect these concurrent powers of the parliament and council have become very apparent by the sequel of events following the emergency ordinances of July 20, 1932[38] and September 4, 1932.[39] The Court of State has not upheld the national government with regard to the former; more im-

[36] See Article 59 for impeachment proceedings. The problem of what constitutes the "same cause" was first elaborated by Carl Schmitt, *Archiv des öffentlichen Rechts*, Vol. 8, pp. 162 ff.

[37] If the execution of emergency ordinances falls within the province of state administration, the concurrence of the Council is imperative, according to Article 77.

[38] RGBl, I, p. 377. This ordinance transferred the Prussian government to a National Comissioner.

[39] RGBl, I, p. 425 ff. For a summary of its contents, see the title given by Lindsay Rogers, in the article cited above, p. 593.

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portant still, it seized this occasion to set forth certain general principles regarding the juridical limitations of the power granted by Article 48. There can be little question that the resignation of Chancellor von Papen was in part due to this court decision. The other cause was, as already stated, the unsuccessful dissolution, i.e., the return by the people of a new Reichstag, which, considering its composition, was as much opposed to the emergency ordinance of September 4, 1932, as the dissolved Reichstag. In conclusion, then, we might say that the president's formal discretion as to what constitutes an exceptional state is supplemented and checked by a certain participation of the National Council, of the parliament, and of the people. As compared with these very substantial checks, the absence of a requirement for the formal declaration of an exceptional state does not seem very important, particularly since any employment of Article 48 serves *ipso facto* as such a declaration. Since the executive power does not pass from the civil to the military authorities, there is no great need for such a declaration.[40]

Having discussed how the exceptional state is decided upon, it may be well to say a few words regarding what constitutes such a state. The exceptional state may be brought on by political emergency, more particularly by insurrection and civil war, as well as by foreign invasion, and by economic emergency, more particularly by inflation, by an economic crisis, or by strikes. The lines of distinction are fluid, as always, but there is some utility in making them. Most of these situations are so distinct that widespread disagreement could not develop regarding their existence. When the Communists attempted by force to seize power in Thuringia in the spring of 1920, when the French invaded the Ruhr, when the dollar rose to astronomical figures in terms of German currency, when unemployment reached several millions, an "exceptional" state was readily apparent to most people.

But what advantage could be derived from allowing the president to rule by administrative ordinances and decrees, when such an emergency has arisen, cannot readily be understood by those who neglect the background which we have sketched above. If it were not for the bureaucracy, the professional civil service, the grant of dictatorial powers to the president would be of rather limited practical avail. As I have said elsewhere, the civil service

[40] Lindsay Rogers seems to be of another opinion, *ibid.*, p. 580.

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represents the most traditional aspect of German political life.[41] In fact, an appreciation of its nature and its growth is as essential to an understanding of German political life as is an appreciation of the nature and growth of Parliament to an understanding of English political life. In difficult times, the most traditional and deep-rooted elements of a political structure come to the fore; it is in its best established behavior patterns that a nation seeks its salvation, just as the Frenchman drowning in Kansas cries: *Au secours, secours.* Since the ministerial bureaucracy is traditionally entrusted with drafting most legislation, the president's rule-making under Article 48 means simply that parliamentary sanction is sought after, rather than before, the promulgation of the rule. If one further considers the wide use made by the executive in Germany of ordinances having the force of law and supplementing ordinary legislation,[42] he will come to understand the real significance of the constitutional powers of the German president under Article 48, which can certainly be called dictatorial only in a very narrow sense. That is the reason why in all the situations mentioned above there prevailed widespread unanimity in Germany concerning the use of Article 48.

Genuine disagreement developed only when the national government claimed that a state of civil war existed in Prussia requiring its intervention and the Prussian government retorted that the national government had done its best to bring about a state of disorder by removing the ban on uniforms for the civilian population, and that clashes with lethal consequences, as long as they were widely scattered and limited almost exclusively to political extremists, could not justly be called a civil war.[43]

It appears that the Court of State could not accept this point of view. In maintaining that Article 48, §2, was applicable under the circumstances, the Court said: "The question whether the Court of State has to examine (*nachprüfen*) the existence of the necessary conditions for (the application of) Article 48, §2, or whether it must base its decision upon the point of view of the president, the Court

[41] In my contribution, "The German and the Prussian Civil Service," in *The Civil Service in the Modern State*, edited by L. D. White (1930).

[42] On this ordinance-making power, see the competent discussion in Frederick F. Blachly and Miriam Oatman, *The Government and Administration of Germany*, Chap. XIX.

[43] See the *Frankfurter Zeitung* for July 20 and later, as well as *Der Angriff* (National Socialist) and *Die Rote Fahne* (Communist).

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of State has never yet decided. In this case, too, it is unnecessary to decide it; for it is obvious that the ordinance of July 20 was issued in a time of serious disturbances and dangers to public security and order. At that time, large political parties fought with each other in bitter enmity, with arms in hand. Hostilities turned almost daily into bloody attacks, causing many deaths. At the same time, there was serious danger that the internal tension would further increase and would lead to a direct threat to our constitutional order. The conditions for the intervention according to Article 48, §2, were, therefore, extant. From the magnitude of the danger, it also follows that it was the right and duty of the president to employ all means which seemed likely to reëstablish public safety and order, *in so far as they are in accord with the constitution.*"[44] This last phrase is the decisive one; for it insists that even dictatorial powers must be exercised in such a way that they do not destroy the governmental structure as established by the constitution. "The content of the ordinance in question is constitutional in so far as it can be interpreted as a mere transfer of competencies or specific authority from the state government to an agency of the national government. But where the ordinance contradicts other provisions of the constitution itself, it is incompatible with the constitution."[45] This language is perhaps less clear than one might wish, but the ensuing paragraph, which declares that no other organ can even temporarily be substituted for the lawful state government, shows clearly that the Court means that the constitutional organization of the government must remain intact.[46] According to the decision of the Court of State, a great deal can be done with the help of Article 48, but not everything. The commissary appointed by the president could "reëstablish public safety and order," but he cannot take over the government of Prussia. To the minimum of constitutional organization implied by Article 48 itself, which at any rate includes the president, the cabinet, the Reichstag, and the

[44] See *Frankfurter Zeitung*, Oct. 26, 1932, pp. 3-4. The italics are mine. See also the admirable and concise analysis by Richard Grau, in the same paper, Oct. 8, 1932, pp. 3-4, which anticipates the decision of the Court all along the line. It is entitled "Der Konflikt vor dem Staatsgerichtshof."

[45] *Frankfurter Zeitung*, Oct. 26.

[46] Of the opposite opinion is Carl Schmitt, who, in a pamphlet entitled *Legimität and Legalität*, written just before the fateful 20th of July, 1932, maintains that the first procedural part of the constitution must give way when it comes into conflict with the second and substantive part.

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Reichsrat, there has been added the federal structure of Germany as an essential structural constituent of the German constitutional order which the dictatorial powers granted by Article 48 may temporarily weaken, but cannot permanently alter.

In conclusion, we may say that Article 48 insures executive leadership in times of stress and strain, but that the complex separation of powers and the elaborate system of checks and balances established by the German constitution of 1919 remain in force. The many plans for constitutional reform will have to be carried out according to the provisions of the constitution for its own amendment. And while this constitutional reform so ardently advocated by Germans of all shades of opinion may, and perhaps will, derive lessons from the present period of executive leadership, it is impossible to forecast at present whether Germany will turn definitely toward the American system of a presidential republic, will muddle along with its present plan of parliamentarism in good times and presidential dictatorship in bad ones, or will cast its vote for a constitutional monarchy, as it exists in the other Germanic nations of Europe: Holland, the Scandinavian kingdoms, and England. In any case, Germany will remain a constitutional, democratic state with strong socializing tendencies whose backbone will continue to be its professional civil service.

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HIGHER OFFICIALS IN THE PHILIPPINE CIVIL SERVICE

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In his instructions to the second Philippine Commission, President McKinley designated "the establishment of a system to secure an efficient civil service" as one of the first tasks that this body should undertake upon its assumption of legislative power in September, 1900.[1] Pursuant to the direction of the president, one of the earliest statutes enacted by the Commission—the fifth—was a civil service law.[2] Many other statements and actions reveal that virtually all of the Americans who were primarily responsible for the establishment of modernized political institutions in the Philippine Islands recognized that a civil service based upon the merit system and divorced from politics was essential to the success of the program of the United States in its great Oriental dependency.[3] Today the character of the Philippine civil service is one of the criteria by which the results of that program may be judged.

As part of a study of this institution, the writer has made in-

[1] *Annual Reports, War Department, For the Fiscal Year Ended June 30, 1900*, No. 2, p. 74 (House Doc. No. 2, 56th Cong., 2d Sess., 4070).

[2] Act No. 5, Philippine Commission, September 9, 1900. The purpose of the act was declared in Section 4 thereof to be "the establishment and maintenance of an efficient and honest civil service in all the executive branches of the government of the Philippine Islands, central, departmental, and provincial, and of the city of Manila, by appointments and promotions according to merit and by competitive examinations where the same are practicable. . . ."

[3] As early as April, 1899, the first, or Schurman, Philippine Commission announced in a proclamation addressed to the Filipino people: "There shall be guaranteed to the Philippine people an honest and effectual civil service, in which, to the fullest extent practicable, natives shall be employed." *Report of the Philippine Commission*, I, p. 5 (Washington, January 31, 1900). In its report to the president, the Schurman Commission said: "Of course the merit or business system must be adopted and lived up to; the patronage or spoils system would prove absolutely fatal to good government in this new Oriental territory." *Ibid.* I, p. 112. In his inaugural address as civil governor, Mr. Taft said: "The civil service act is the bulwark of honesty and efficiency in the government. It avoids the most marked evil of American politics, the spoils system. Without it, success in solving our problem would be entirely impossible." *Report of the Philippine Commission*, 1901, II, p. 284. The Taft Commission reported on November 30, 1900, that it had "passed a law which it believes goes further than any civil service law of any state or of the United States in carrying out the theory of the merit system." *Reports of the Taft Philippine Commission*, p. 21 (Senate Doc. No. 112, 56th Cong., 2d Sess., Washington, 1901).

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quiry into the antecedents, the education, and the careers of the higher administrative officials of the Philippine government. Data were secured from the service records of 56 of the under-secretaries, bureau chiefs, and assistant chiefs, and in almost every instance was supplemented by a personal interview.[4] In many cases, the material thus obtained was checked from documentary and other sources of information. This material affords a factual basis upon which to answer the important question as to what type of man the Philippine civil service has brought to the positions of highest power and responsibility. It also gives a realistic view of the career of the Philippine civil servant and of many other aspects of the administrative organization that has been built up upon the basis of the civil service act of 1900. Incidentally, a study of the group under consideration brings to light numerous interesting facts concerning Philippine society as it has developed during the past three decades.

The highest permanent official in each of the six departments of the Philippine government is the under-secretary. This office was created when the government was reorganized under the Jones Act in 1917. The Administrative Code provides that the under-secretary shall perform such duties as may be assigned to him by the secretary of the department or imposed upon him by law, and that when the secretary is temporarily unable to perform his duties, or in case the office of secretary is vacant, "the under-secretary shall temporarily perform the duties of said office."[5] Appointment is by the governor-general with the consent of the Philippine senate.[6] In practice, selections are made from the permanent staff of the department concerned. The salary is substantially larger than that of the bureau chief, and in dignity and prestige the office is comparable with that of corresponding positions in the British or Continental governments.[7]

[4] A few of the officials in the categories listed could not be reached personally because they were away from Manila, ill, or for other reasons inaccessible during the summer of 1931 when the study was made. Their number, however, was not great enough to reduce materially the validity of the conclusions reached. The five American bureau chiefs were not included in the survey.

[5] *Administrative Code* (Act No. 2711, March 10, 1917, as amended by Act No. 2803, February 28, 1919), Sec. 79. The Code provides that there shall be in each department one or more under-secretaries as the appropriation acts may provide. At present, there are two under-secretaries in the Department of Finance (one in charge of the budget) and in the Department of Commerce and Natural Resources.

[6] *Ibid.*, Secs. 65, 66.

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The actual division of labor and power between the secretary and the under-secretary naturally varies in accordance with departmental traditions and with the personal characteristics of these officials. Usually, however, the under-secretary bears the brunt of the routine work. Departmental papers reach the secretary over the desk of the under-secretary. Bureau chiefs usually consult with him before going to the chief, and, in ex-Governor Lowden's meaning, are "coördinated" by him.[8] The under-secretaries also frequently serve on inter-departmental committees and investigating boards, and in other ways represent their respective departments in their relations with the rest of the government and with the public.

The true position of the under-secretaries was clearly and dramatically brought home to the public upon the simultaneous resignation of the five Filipino heads of departments on July 17, 1923. Two days later, Governor-General Leonard Wood cabled to the secretary of war: "No new developments. Conditions as to government operation normal. The under-secretaries have automatically taken the place of the secretaries who resigned and are functioning harmoniously and efficiently. They are the real technical men of the government."[9] In four of the departments, the under-secretaries continued as acting secretaries until 1928. In that year, upon appointment by Governor-General Henry L. Stimson, one of them, Miguel Unson, became secretary of finance. The other three reverted to their former status.[10] Although from the political standpoint the elimination of the secretaries was unfortunate, their resignation seems to have had slight effect administratively. As General Wood reported at the end of 1923, "the government moved on smoothly and efficiently without interruption in any of its functions."[11]

This incident demonstrated the permanent, professional, non-political character of the Philippine administrative machine. It

[7] In 1928, the salaries of the under-secretaries were fixed at P8,500 per annum (Act No. 3437, November 28, 1928). The bureau chiefs receive a maximum of P7,500. The economic depression has caused a substantial reduction in these and other civil service salaries, which may or may not be permanent.

[8] See Frank O. Lowden, "Permanent Officials in the National Administration of the United States," in this REVIEW, Vol. 21, p. 531 (Aug., 1927).

[9] *Report of the Governor-General of the Philippine Islands*, 1923, p. 37.

[10] Governor-General Wood sought to appoint all of them full secretaries of department in 1925, but was blocked by the Philippine senate. *Ibid.*, 1925, p. 4.

[11] *Ibid.*, 1923, p. 3.

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also enhanced the prestige of the under-secretaries and emphasized their complete separation from politics. During all of the bitter warfare of the political leaders against General Wood, there was no demand that these key administrative officials should follow the example of their departmental chiefs and refuse to coöperate with the governor-general. The public, as well as the legislative leaders, recognized their status as civil servants and allowed them to remain outside of the political prize ring.

Individually and as a group, the under-secretaries illustrate many of the characteristics of the governmental, social, and personal developments that have occurred in the Philippines during the thirty years of Filipino-American association. The oldest of them is 62 and the youngest 37; their average age is a little over 48.[12] Three, who are under 43, are typical products of the new Philippines. One of them is a graduate of the public schools and the College of Hard Knocks; the other two hold degrees from the University of the Philippines, and one of them was a graduate student at Yale. Of the older group, all but one were educated in Roman Catholic schools and colleges during the Spanish régime or in the early days of the American era. All but one of the eight have spent the whole of their adult lives in the civil service, and have carried down to the present the ideals and practices that were ground into that organization by the remarkable group of Americans who dominated the Philippine government for a decade and a half after 1898. Five have studied or traveled in the United States. Four enjoy substantial, and two small, private incomes. One has a record of 32 years in the public service, another of 30, and another of 29. Their average length of service is more than 26 years. None has ever participated in politics or held an elective office, and the only one who belongs to a political party is an "inactive member."

With one exception, the present under-secretaries have reached the top of the Philippine civil service through a combination of seniority and ability.[13] The older group display the traits of mental

[12] All statistics as of July, 1931. On December 5, 1932, Governor-General Theodore Roosevelt approved the "Reorganization Act of 1932," a measure that provided for the reorganization of the departments, bureaus, and offices of the insular government (Act No. 4007, December 5, 1932). In accordance with the terms of this law, departments and bureaus have been renamed, functions have been reallocated, and personnel reduced. The reorganization, however, does not seem to have altered the status or the characteristics of the higher officials of the civil service.

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and physical vigor, poise, dignity, and earnestness of purpose characteristic of the best Filipinos. To these qualities the three younger men add a more obvious energy and a directness of manner reflecting the greater influence of their American contacts. One cannot know these gentlemen without being impressed with their charm and personal worth, and without feeling that a government and a country in which such characters come to the top represent an admirable type of civilization.

Below the under-secretaries in the official hierarchy come the chiefs, or directors, and the assistant-directors of the 30 bureaus of the insular government. These officials are the heirs of a great tradition, and their position cannot be understood properly by one who simply brackets them with the corresponding officials in Washington or in a state capital. In the years between 1900 and 1913, it was the bureau chiefs who were immediately and directly in charge of the work in public health, education, finance, justice, public works, science, agriculture, and the other services that within little more than a decade effectively started a backward Oriental people on the road to modern nationhood. Until 1916, each bureau tended to be almost a department in itself.[14] Instead of being the "typical bureaucrat, who doesn't do a thing and doesn't give a damn," the bureau chief of those days was a pioneer. As Dean C. Worcester put it, these officials "were, in short, the men who determined policies and spent the government's money."[15] They formed the backbone of the organization that put through the American program for the regeneration of the Philippines. Their personalities and their achievements, combined with the extraordinary powers that many of them wielded, in time made them figures of legendary proportions. These pioneers made the bureau chief a great man in the Philippines.

During the early years of the Harrison régime, many of the experienced American bureau chiefs, assistant chiefs, and division heads were driven from the service and replaced by Filipinos.[16]

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[13] Dr. Alexandro Albert, the universally respected under-secretary of education was appointed to that post in 1917 after having served for 17 years on the faculty of the Liceo de Manila.

[14] This was one of the reasons given for the reorganization of the executive departments under the Jones Act. See *The Filipino Appeal For Freedom*, p. 22. House Doc. No. 511, 67th Cong., 4th Sess.

[15] *The Philippines, Past and Present*, Ralston Hayden, ed. (New York, 1930), p. 700.

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Public attention was then centered upon these new officials. When some of them failed to measure up to the demands of their positions, many Americans were ready to exclaim, "I told you so!" Those who succeeded seemed to justify "Filipinization." Their achievements added to the self-confidence of the Filipino people, and they became figures of national importance.

Furthermore, under the centralized governmental system of the Philippines the services of many of the bureaus, such as health, education, and public works directly affect almost every person in the Archipelago. The executive bureau strictly controls the provincial and municipal governments. The bureau of non-Christian tribes is responsible for forwarding the national policy of assimilating the million primitive pagans and Moros into the Philippine body politic and meanwhile governing those difficult wards of the nation. In short, the bureau chiefs are responsible for services that are national in extent, that directly affect all of the people, and that in some cases are linked up with the Filipino aspiration for independence in such a way as to be of dramatic interest to the whole nation. In such circumstances, it is natural that these officials should occupy a position of greater importance among the leaders of the Philippines than do the corresponding civil servants in any other country in the world.

Considering now the present bureau chiefs and assistant chiefs, it is interesting to observe, first, their ethnologic distribution and the parts of the Islands from which they have come. The parents of these 50-odd civil servants were born in 20 different provinces representing every important region of Luzon and the Visayan Islands with the exception of the Cagayan Valley and the Bicol Peninsula. Although more were natives of Manila and the adjacent Tagalog provinces (29 of Manila and 35 of other parts of the Tagalog region) than of any other district, the disproportion is no greater than might be expected, considering the degree to which the Spanish government and influence centered in the capital. The

[16] For the facts concerning this phase of "Filipinization," with estimates of its results, see Worcester, *op. cit.*, Chap. xxxvi; W. C. Forbes, *The Philippine Islands* (Boston, 1928), Vol. II, Chap. xxi; D. R. Williams, *The United States and the Philippines* (New York, 1926), Chap. vii; F. B. Harrison, *The Corner Stone of Philippine Independence* (New York, 1922), Chap. vi; M. M. Kalaw, *The Development of Philippine Politics, 1872–1920* (Manila, 1926), Chap. xii; "Report of the Governor-General, July 1, 1913 to December 31, 1914," in *Report of the Philippine Commission, 1914*, pp. 14–31; *Ibid.*, 1915, pp. 27–31.

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birthplaces of the officials themselves show a somewhat similar geographical distribution. Eleven were born in Manila or its suburbs; 17 came from the distinctively Tagalog provinces; eight from the central Luzon plain north of Bulacan; two from the Ilocano country; five from Zambales and Bataan; and nine from the Visayan Islands.

These figures show that as there is no rule of geographical apportionment governing appointments to the Philippine civil service, so also has there been no systematic effort to see that all provinces, or even regions, are represented in the higher ranks of permanent officials. None of these officials and not one of their parents came from Mindanao or Sulu, the great Southern Islands that constitute nearly one-third of the area of the Archipelago; and the Cagayan Valley and Bicol Peninsula are also unrepresented. So far as the Cagayan provinces and the Southern Islands are concerned, this situation is readily understandable. Until recent years, the great tobacco-growing country of the north was an isolated and backward region. Mindanao and Sulu were frontier lands within which only scattered groups of Christian Filipinos lived, under relatively primitive conditions. With the rapid development of these territories, it is to be expected that they will find some representation among the next generation of higher officials in Manila.

The over-representation of the Tagalog provinces is also clearly shown by the figures given. If the five officials from Zambales and Bataan[17] are added to the 28 who were born in Manila and the adjacent Tagalog provinces, 33 of the group are natives of the area centering in the capital, as compared with 19 from all the rest of the Archipelago. These proportions based upon the birthplaces of the individuals concerned are confirmed by an ethnological classification of the group made from other data. Thirty-two of the 52 classified are Tagalogs, 10 are Visayans, four are Pampangans, three are Ilocanos, two are Sambals, and one is a Pangasinan. Considering that out of the 13,000,000 inhabitants of the Philippines less than 2,500,000 are Tagalogs, it is evident that this group has played a rôle in the administration of the government far beyond its numerical strength.

In presenting this analysis of the geographical and ethnological distribution of the men who directly control the business of govern-

[17] Coastal provinces west and to the north of Manila Bay in which Tagalog influences are strong.

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ment in the Philippines, it is not intended to imply that any of them is provincially minded or that he thinks and acts primarily as a member of any particular group, province, or region. These gentlemen are Filipinos first and Tagalogs, Visayans, or Ilocanos afterwards. They have lived in Manila most of their adult lives and have been engaged in work that tends to make them nationally minded. In this respect, they are typical of the upper classes of all professions and occupations, especially those who have sought their fortunes in the insular capital. On the other hand, it is safe to say that none of them has wholly divested himself of the viewpoint and affiliations of his native group and province. Nor have other Filipinos been able to forget the origin of these officials. Despite the remarkable progress toward nationalization that has been made during the past thirty years, the existence of ethnological divisions among the Filipino people is a fact that cannot be ignored in any study of the political institutions of the Philippines. The division of power, or of the higher official positions, among these several groups as illustrated by the officials under consideration gives some line upon the part that each of them has played in the development of the present institutions of the Islands.

Indicative of the questions of race that play so important a part in Philippine affairs is the natural tendency to classify Filipinos not only with reference to the native ethnological groups of the Islands, but also upon the basis of any foreign blood that they may have in their veins. The chief external strains are Spanish and Chinese. In their partially alien ancestry, the officials under consideration are typical of the upper classes among the Filipino people. Fifty-three of the individuals interviewed were certain enough of their ancestry to state definitely whether either Spanish or Chinese blood was to be found on either the paternal or maternal side. Of this number, 16 were of Chinese-Malayan ancestry, 13 were Spanish-Malayan, 13 were Spanish-Chinese-Malayan, one had English-Malayan blood, and 10 declared that so far as they knew their forebears were wholly Malayan. Among this last group, there were five individuals whose appearance spoke louder than words or records: there could hardly be any doubt that somewhere in the past the Malayan forebears of these men had mingled their blood with that of Chinese, and possibly of Spaniards. Indeed, one undersecretary expressed the common feeling on this subject when he answered my query as to his racial antecedents by the counter-

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question: "Is there a single Filipino who hasn't some trace of either Chinese or Spanish blood in his veins?" Certainly there are few Filipinos of property, position, or influence in any unit of society who do not have such.

Perhaps the most significant fact revealed by the racial composition of the group studied is the large proportion of Chinese blood. There are 21 distinctively Chinese, as compared with 13 Spanish mestizos, while in 13 other cases both Spanish and Chinese blood is mingled with that of the Malays. If the Chinese make such a showing after three centuries during which mass Chinese immigration has been barred by Spain and the United States, what will be the racial composition of the governing classes of the Philippines after a generation or two during which the Filipinos can expect no external help in excluding them and during which very little new non-Chinese foreign blood will enter the Islands?

As might be expected of cultivated people living in a society representing several racial stocks, all of the under-secretaries, bureau chiefs, and assistant chiefs command at least two languages, while many of them are at home in several tongues. All speak English, 48 Spanish, 40 Tagalog. Twenty-two are familiar with English, Spanish, and two dialects, while six freely use three, and one four, dialects in addition to the foreign languages. Not without significance is the fact that there are no Chinese-speaking folk among all of these officials. Indeed, there was only one among their parents—evidence of the assimilation of the Chinese blood that is represented in so many Filipino families.

The linguistic background of the educated Filipino of the upper classes is well indicated by the information gained from this group. Of their fathers, 48 spoke Spanish, while 37 of their mothers could use the idiom of Spain. Many of the latter, though, spoke it "only a little." Spanish was the habitual language in the parental home, nevertheless, in only four cases. In 34 instances, a single dialect was the usual medium of conversation, while in 11 one dialect and Spanish were customarily used. The picture is very different today. In only 15 cases is a single dialect the home language. In 12 families, Spanish is habitually used; in eight, Spanish and a dialect; in 10, Spanish, English, and a dialect; and in eight, English and a dialect. In all of the English-dialect homes, English is the secondary language.

Anyone familiar with the Philippines will recognize these data

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as being fairly representative of the language situation among the upper classes of Filipino society, although governmental service has undoubtedly increased the quantity and improved the quality of the English spoken by this particular group. The fact is that although English is now spoken by more Filipinos than ever were able to use Spanish, the tongue of "Mother Spain" continues to be the formal language of "society." Probably it is more generally used today than prior to 1898 by Filipinos of high position. That the idiom of Castile is not dying out among this element of the population is indicated by the fact that in 34 out of the 45 instances in which these officials have children of school age, the latter are learning Spanish as well as English. English remains in all cases a secondary tongue.

The large proportion of instances in which the parents of these permanent officials spoke Spanish at once suggests that most of them sprang from the upper and middle classes of society. Other data conclusively prove the validity of this conclusion. The fathers of at least 25 were landowners; only four were tenants or "small farmers." In only one or two cases, however, were the landowners great proprietors. In some instances, in addition to being "farmers," they were merchants, fish-pond owners, teachers, or officials. A small number were professional men. Twenty-five of them held public office during Spanish days, three during the American régime, and nine under both flags. In 25 instances, the parental home was in the *poblacion*, or central town, of the municipality. Seventeen other families maintained both town and country houses, a common custom among Filipinos of means.

But while these facts show that as a group the Filipinos who have forced themselves to the top of the permanent civil service in Manila sprang from the ruling classes of the Philippines, a number of these leaders came from the humblest of homes and very few of them belong to the great families of the Islands. In America, men of their type would be called upper-middle class. What would be middle-class here, however, is distinctly upper-class there; and between men of their personal cultivation and social status and the masses of the people there is a gap that it is difficult for the Occidental to conceive. All the more credit should be given to those individuals whose determination, brains, and industry have enabled them to bridge this chasm. There are a number of such men in the higher ranks of the Philippine civil service.

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With very few exceptions, the highest positions in the civil service are held by men who have made that service their career. The average age of the officials under consideration was approximately 25 years upon first appointment; their present average age is approximately 46; their average length of service is 21 years. One entered government employment at the age of 16, and 27 between 18 and 22, inclusive. Many of those who first qualified at a more advanced period of life are in the technical and professional services, such as medicine, law, and the various sciences that require long academic training and in some instances practical experience outside the government. In 12 cases, the officials had left the service for a few years, returning later, in most instances to their old departments.

These figures demonstrate beyond any possibility of question that the provision early introduced into the civil service law, and later included in the Administrative Code,[18] requiring that "appointments to the position of chief or assistant chief of a bureau or office and to the position of superintendent shall be made by the promotion of persons already in the service if there be such who are competent and available, and who in the judgment of the appointing power possess the qualifications required," has been followed in letter and spirit. The few breaches of it have served merely to emphasize the fact that it is obeyed in ninety-nine cases out of a hundred. In 1931, there was only one of the sixty-odd officials whose positions come within the terms of this law who was primarily a political appointee. This exception was the chief of the executive bureau, an office that is highly political in nature. Two other bureau chiefs have within recent years been appointed from outside the permanent service, but in each instance a strong case could be made that the public interest demanded his selection.[19]

Undoubtedly every deviation from the strict rule of appointment to high administrative position by promotion within the civil service is dangerous to the merit principle and should be scrutinized with a critical eye. Yet the laws of the Medes and the Persians are not remembered because they produced good government. The appointment of outsiders to high positions in the Philippine civil

[18] Sec. 679. Positions of under-secretary, bureau chief, and assistant chief are specifically excluded from the classified service. *Administrative Code*, Secs. 65, 66, 671.

[19] Judge Serafin Hilado, appointed chief of the bureau of lands in 1929, and Tomas Confesor, made chief of the bureau of commerce and industry in 1930.

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service is infrequent enough, and on the whole has been wise enough, to demonstrate a desirable flexibility in the rule of promotion rather than the habitual violation of this fundamental principle of the merit system. There is, indeed, no country in the world in which promotion to the positions of departmental under-secretary, bureau chief, and assistant chief is more completely from within the civil service and less influenced by objectionable political interference than in the Philippine Islands.

From the standpoint of their careers in the civil service, the under-secretaries, bureau chiefs, and assistant chiefs fall naturally into three groups. Twenty-nine entered the service when young (between 16 and 25) and worked up from lowly positions to their present rank. Most of this group are in bureaus the activities of which fall outside the scope of any of the long established professions. The chief and assistant chief of the bureau of internal revenue are typical cases. The former entered the service at the age of 18 as a deputy provincial treasurer and in 22 years became the insular collector of internal revenue. The latter became deputy collector at the age of 38, 19 years after having received his first appointment as a temporary clerk in the bureau at the salary of P60 per month. It is significant of the character of the Philippine civil service that seven of the eight under-secretaries belong to this group.

Many of these men began their life work with only an intermediate or high school education. The same qualities that enabled them to rise in the government service, however, led a considerable proportion of them to continue their schooling and eventually to obtain academic or professional degrees. In several cases their advanced study was carried on in American universities under the *pensionado* system through which the Philippine government has assisted in the education of many ambitious youths during the past three decades.

The second group of ranking civil servants is composed of 13 officials in bureaus whose work requires professional or scientific training and experience. These men entered the service somewhat later in life, most of them between the ages of 27 and 36, after they had established themselves in their professions. Dr. Jacabo Fajardo, chief of the bureau of public health, and the attorney and the solicitor-general exemplify this type of career. On the average, they reached their present positions after nine or ten years of

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public service—a period long enough to guarantee their being genuine civil service officials, but not sufficiently prolonged to suggest that slow promotion by pure seniority which deters first rate professional men from seeking a career within the government.

In a somewhat different category are five or six chiefs or assistant chiefs of scientific bureaus who either entered early upon their official careers immediately after receiving their academic professional training, or, having entered the service at a very early age, completed their professional education later in life, thus opening the way to the top of their departments.

Finally, in the third group, there are nine ranking officials who entered the public service after thirty and are now at the head of non-professional, non-scientific bureaus. The chief and the assistant chief of the bureau of labor, the deputy collector of customs, who advanced from the rating of law clerk to his present position in ten years, and the chiefs of the bureaus of lands and of commerce and industry are included in this category.

Perhaps the most significant characteristic of this grouping is the close correlation shown between the nature of the functions to be performed by the several services, on the one hand, and the entrance age and the educational qualifications of their chiefs, on the other. As time goes on, it is to be expected that the number of Filipinos who enter the government service at a very early age and without an advanced education and gradually rise to the top will diminish. When the older members of the first group discussed above were 19 or 20 years of age, very few of their countrymen had enjoyed the advantage of college or university training. For the past decade, or more, however, the supply of academically and professionally trained youths who are looking for government jobs of any sort has far exceeded the positions available. Furthermore, specialization in education during the past thirty years has professionalized many occupations for which there formerly was available no technical training of an academic nature. The lower ranks of the service—the ranks from which the future leaders will be drawn—are now pretty generally staffed with men of modern educational equipment. It may be expected, therefore, that in the future the first group discussed above will diminish, while the second and third groups will increase in size.

Even at the present time, however, the educational qualifications of the entire group of higher civil servants, so far as such

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qualifications can be gauged by academic records, are of a high order. Of the 55 individuals whose complete educational records were available, only 10 have not secured a college education.[20] In addition to the advantages of academic education, a large proportion of the officials listed have enjoyed the broadening influences of foreign travel. Thirty-eight have visited the United States; 17, both Europe and America; one, Europe but not America; 13 have traveled more or less extensively in Japan and China, and three in the Dutch East Indies. It is doubtful whether the ranking officials in any other civil service are so widely acquainted with the world. It should be added also that these men are much more familiar with their own country than are most Filipinos. More than half of them have visited most of the important regions of the Archipelago.

One of the most important *desiderata* in any civil service is that it shall bring men to positions of responsibility at a relatively early age. The state benefits if its administration is directed by individuals who have not wholly lost the enthusiasm and creative vigor of youth. Young men of ability will be attracted to the public service if there is a reasonable chance that they can reach its upper ranks before arriving at what to youth seems old age. To a striking extent, the Filipinos who have been the political leaders of their country since 1898 have attained power while still young men.[21] Until after 1913, however, access to the highest posts in the administrative branches of the government was denied to Filipinos. Since that date, it has been possible to reach them only by promotion, a process that requires years where election to a political office of corresponding rank may be secured in months. Despite these inevitable and desirable limitations, however, the ranking positions in the Philippine civil service have always been attainable

[20] Most of the 10 who have never pursued formal study beyond the secondary grade were poor boys who entered the civil service in subordinate positions during the early days of the American occupation. Twenty-four members of the entire group have studied in American colleges or universities, and a few have supplemented this work by additional training in European institutions. Forty-four of these officials have received a professional education.

[21] Aguinaldo headed the revolution against Spain at the age of 26. Of the three outstanding political chieftains of the present period, President Quezon was governor of Tayabas at 28 and floor leader of the Philippine assembly a year later; Senator Osmeña became governor of Cebu when 26 and was elected speaker of the Philippine Assembly when 29; Mr. Roxas, the present speaker of the house of representatives, was elected to that position at the age of 30, and was governor of the province of Capiz at 27.

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by comparatively young men. The service today is dominated by progressive youth, not by reactionary age.

It has already been stated that the average age of the ranking group, including the under-secretaries, is only 46. A clearer view of the time of life at which the successful civil servant may hope to arrive at, or very near, the top is given, however, by the ages at which these officials reached their present positions. The highest rank in the permanent service was reached by the present under-secretaries, on the average, at the age of 43. Three of them were appointed while still under 40. The average for the bureau chiefs was a little under 42; for the assistant chiefs, 38.5. Among the entire group, only four are over 55. The average time that the under-secretaries had served as such in 1931 was 6.4 years; while for the bureau chiefs and assistant chiefs, respectively, the period was 5.5 and 4.9. Obviously, here is a group of men who are at the very height of their powers. The figures indicate, too, that they are moving on rapidly enough to keep the channel of promotion reasonably clear. There are, of course, individual exceptions. The chief of one bureau has served as such for 17 years; another for 16. Such situations, however, are hard to avoid in any system that guarantees security of tenure.

In discussing the British civil service, President Lowell remarks that "the keeping out of politics and . . . the permanence of tenure must, in the long run, go together."[22] This dictum is sound even in a country like the Philippines where only one party has sufficient strength to be able to influence patronage. Certainly the men at the top of the Philippine civil service, with rare exceptions, have throughout their careers abstained from affiliations and actions that might prejudice their permanent, non-political status or tend to inject the service as a whole into politics. Forty-five of those questioned upon this point have never held or sought any elective office. Of the remaining seven, three have served in the House of Representatives; two have run for the House but failed of election; one, in the days of his youth, served for three months on a municipal council; and one has been a provincial governor. In only one, or at most two, of these cases was there any immediate connection between the official's political activity and his appointment to the civil service. There are no "lame ducks" among the group under consideration.

[22] *The Government of England*, Vol. I, p. 147.

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Furthermore, practically all of the higher permanent officials keep themselves clear of suspicion of any kind of political activity. Of 52 who were questioned upon this point, 40 stated that they did not even belong to a political party. Only two indicated that they made contributions to the funds of any party or candidate, or had been requested to do so. These two had advanced small sums to candidates who were their personal friends. Indeed, when questioned, all pointed out with obvious sincerity that, being civil servants, they were not expected to make party contributions and that it would be highly improper for them to do so. It is safe to say that in the Philippines the career of the civil servant is completely separated from that of the elective official, and that the higher administrative officers take no part in party politics.

Although the private lives of the 56 Filipinos whose backgrounds and careers have been analyzed are of personal rather than public interest, some understanding of them as men gives color to a study of them as public officials. Like nearly 90 per cent of their countrymen, most of these men are Roman Catholics. They are typical Filipinos, however, in their independent attitude toward the Church. Twenty-seven, for instance, are members of the Masonic order, and 33 send their children to the public schools.[23] The solid character of the group is indicated by others facts: 45 of them have children, with the generous average of five to the family; all but eight, three of whom live in government quarters, own their own homes; 31 have substantial private incomes (at least half as much as their official salaries); while 14 more have some outside financial resources.[24] Possibly it is this degree of financial independence that enables so many of this group to participate in the very delightful club life characteristic of Manila. Only eight have no Manila club affiliations.[25]

[23] "No," one of the Masons said, "the Church does not approve of Masonry. But the priest knows that he can do nothing about it, so he just doesn't know that I am a Mason." Filipino women are apt to be more fully under the domination of the Church than are the men.

[24] In a good many instances, this non-official income is earned by teaching in one of the Manila colleges, or is brought into the family by the wife.

[25] Thirty-nine members of the group belong to the Philippine Columbian Association, which has a beautiful and well-equipped club house at one of the finest locations in the city; 10 are members of the aristocratic Club Filipino; 15 play golf at Wack Wack, the fine new country club with an international membership; 15 or 20 belong to tennis clubs; three are Rotarians; three are members of the Casino Español.

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The detailed nature of this study of the ranking officials of the Philippine civil service may have made it difficult for the reader to obtain a clear general picture of the type of men who direct the administration of government in the Islands. Perhaps the broadest generalization that can be made upon the basis of the facts that have been adduced is that the higher insular administrative officials are thoroughly professionalized. The civil service is their career. In most cases, they entered it either at a very early age or soon after they had acquired professional training and standing. Their advancement has been due to a combination of seniority and ability, and has been rapid enough to prevent stagnation, either personal or departmental. Their tenure is secure, and they stand completely apart from party politics.

Other generalizations that may be made shed further light upon the character of the civil service, and incidentally tell a good deal about Philippine society in general. Only a small proportion of the members of this group are pure Malays. The rest represent admixture of Chinese and Spanish blood with that of the natives of the Archipelago, the Chinese infusion being the most pronounced. In language, education, and religion, the group fairly reflects the cultural strains that are combined in the Philippines—the Malayan, the Spanish, and the Anglo-Saxon. They are less accurately representative of the ethnological divisions among the Christian Filipinos and of the geographical regions of the Islands. More than half of their number are Tagalogs, although this racial group contains only a little more than one-sixth of the population of the Archipelago. As a group, these officials are representative of the most substantial elements of the Filipino people. While a large majority of them sprang from the upper strata of society, a smaller number came from the highest ranks than from the masses of the people. There is probably no civil service in the world in which promotion to the very top is more freely open to the poor boy of talent and determination.

In personal culture, including a knowledge of the world beyond their immediate horizon, in dignity, and in a high conception of their duties and responsibilities, these officials compare favorably with the corresponding group in any nation.

It is often said that the Filipinos who are now at the head of most of the government services in Manila are deficient in initiative and driving force. Certainly they are so as compared with their Ameri-

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can predecessors. The latter, however, were unique figures in a pioneer period that has passed. Moreover, although forcefulness and originality are not the qualities which are usually most prominent in the civil servants of any country, a number of Filipino bureau chiefs, past and present, possess these characteristics in conspicuous degree. In this connection, however, it should never be forgotten that these individuals are but part and parcel of the society in which they live. In that society, the tempo of life and man's energies, standards, and fundamental concepts of values are the products of the tropics and of a civilization that has sprung from Malayan and Spanish far more than from Anglo-Saxon sources. However much they may have absorbed from their American contacts, this little governmental group, and others like them, are working among a people who are still tropical Malays, far more influenced by three centuries of Spain than by three decades of America. Among the rank and file of their own departments, the energy, the ability, the response, is not American, but Filipino. The nation that pays for and is to be satisfied with their services is Filipino. They themselves are Filipino—among the most progressive, energetic, and able of their race, most definitely affected by America and Americans, perhaps, but Filipino and proud of it. How, then, are they and their work to be rationally judged as to initiative, forcefulness, and other subjective qualities save by the standards and the mentality of their own people?

Recognizing the limitations of the foreigner in evaluating the institutions of any country, I nevertheless believe that the character and the careers of the ranking administrative officials of the Philippine government constitute convincing evidence of the success of the civil service system that was established in the Islands in 1900 by the fifth act of the Philippine Commission.

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Report on Recent Social Trends in the United States.[1] This is the latest and most comprehensive of the series of studies promoted or patronized by Mr. Hoover, which began in 1921 with the report on "Waste in Industry." In September, 1929, the President called upon a group of leading social scientists to examine recent social trends with a view to preparing such a report "as might supply a basis for the formulation of large national policies looking to the next phase in the nation's development." This was an ambitious undertaking, more ambitious than any of those which had preceded it. But the President believed firmly in the method of fact-finding by commission, as was demonstrated by the contemporaneous creation of the Wickersham Commission. This belief appeared to be justified by the accomplishments of previous commissions, especially the commission whose report on "Recent Economic Changes" was then approaching completion. Be that as it may, it was logical that the series of studies should culminate with a broader view of the great society which constitutes the American community. For the purpose of making this survey, President Hoover secured the services of six expert investigators whose past performances had gained for them the confidence of American students of the social sciences.[2] Among them there was a thoroughly competent representative of political science. There was also assurance of adequate financial support. Thus the enterprise began with a good prospect of achieving whatever it might be practicable to achieve in the existing state of the social sciences.

The first fruits of this enterprise have now been harvested. The yield of three years of research by a large staff of investigators fills two stout volumes containing more than 1,500 pages. There is a foreword by Mr. Hoover, written at the White House shortly before the election and significantly restricted to less than a single page. There is a review of the findings by the Research Committee itself, compressed within less than 70 pages, which is supported by 29 chapters, setting forth the findings at greater length. Some of these chapters are themselves substantial monographs on particular social trends. Presently these two volumes will be followed by 13 others, in which many of these trends will be examined more closely and their nature illustrated with an abundance of detail. Judging by the chapters in the present two volumes, the complete report

[1] *Recent Social Trends in the United States; Report of the President's Research Committee on Social Trends* (New York: McGraw-Hill Book Company. 1933. Two volumes. Pp. xcv, 1,568.)

[2] The members of the Committee were Wesley C. Mitchell, chairman, Charles E. Merriam, vice-chairman, Shelby M. Harrison, Alice Hamilton, Howard W. Odum, and William F. Ogburn.

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of the Commission's findings should form a matchless stock of information concerning the development of the American community since the beginning of the century. Students of the social sciences should find it an invaluable store-house of facts and ideas. Political scientists are specially fortunate on account of the wealth of material which these volumes will afford for the study of their special subject. Monographs are promised on such interesting topics as "The Metropolitan Community," "Political, Economic, and Social Activities of Women," "Trends in Public Administration," and "The Growth of the Federal Government, 1915–1932." Meanwhile we find among the 29 supporting chapters in the Committee's published report one on "The Growth of Governmental Functions" by Professor Wooddy, others on "Taxation and Public Finance," "Public Administration," and "Laws and Legal Institutions" by Messrs. Heer, White, and Clark and Douglas, together with a concluding chapter by Professor Merriam on "Government and Society." It is a bountiful crop which the Commission has produced.

There is something peculiarly fascinating to the social scientist about the study of trends. A trend is no ordinary collection of facts. It is a collection of facts so arranged as to reveal a hidden meaning in a sequence of events. If one may assume that the process of change, illustrated by the sequence of events, is no mere casual circumstance, but the explicable consequence of knowable factors in the life of society, it is tempting to conclude that the trend may be projected into the future and thus afford the means of predicting the course of events. Such predictions may, as Mr. Hoover puts it, "supply a basis for the formulation of large national policies looking to the next phase in the nation's development." Trends to which the statesman can point with pride may be fostered by suitable measures; those which he feels moved to view with alarm may be combatted with the weapons at the disposal of statesmen. Observers of a reflective turn of mind may suggest that the judgment of statesmen concerning the character of trends is likely to be determined by the preponderance of interests to which the statesman owes his power, and that something more than a knowledge of trends is desirable if the art of politics is to be reduced to a science. Doubtless, the prudent social scientist, in default of reliable means for evaluating trends, will not presume to dictate the policies of the state. But he may serve the statesman well by defining the problems of contemporary society and formulating the conditions which acceptable solutions must satisfy. This more modest task, which perhaps is what Mr. Hoover really had in mind, the Commission has attempted to perform. There is remarkably little prophecy in these stout volumes; there is a great deal of problem-stating. The restraint with which the Commission approached its task should give the reader greater confidence in its capacity to achieve what may have been practicable.

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The Committee's review of its "Findings" is divided into three principal parts and a brief conclusion. The first two parts deal with the problems of America's physical and biological heritages, respectively. They contain much interesting information concerning the land and natural resources of the United States and the growth and characteristics of the population. Political scientists will find of most interest the discussion of the effects of introducing mechanical sources of power on the farm and of the redistribution of population between country and city. The third part deals with the problem of America's social heritage, and in turn is subdivided into three parts, which are devoted, respectively, to "invention and economic organization," "social organization and social habits," and "ameliorative institutions and government." This is a classification of material which will commend itself to the political scientist. The Report reaches its climax with the problems of government. That, the political scientist is bound to believe, is as it should be. The conclusion, though cautious, is not unsanguine. "The Committee does not wish to exaggerate the rôle of intelligence in social direction, or to underestimate the important parts played by tradition, habit, unintelligence, inertia, indifference, emotions, or the raw will to power in various forms. These obvious factors cannot escape observation, and at times they leave only a hopeless resignation to drift with fate. Social action, however, is the resultant of many forces among which, in an age of science and education, conscious intelligence may certainly be reckoned as one." This is a tone congenial to political scientists. Only those who have a sanguine temperament can devote their days to the study of modern government and politics without becoming hopelessly sceptical or uselessly cynical. American political scientists, so-called, may hesitate to claim for themselves such a title, but they are neither sceptics nor cynics. They will approve the spirit as well as the form of this report.

The publication of the Committee's report happened to coincide with the culmination of public interest in the pronouncements of the technocrats. This coincidence suggests a comparison between the findings of the latter and those of the Committee. The technocrats have told us that the progress of invention has rendered obsolete the traditional forms of economic organization, and that the accompanying political organization consequently becomes superfluous. The Committee's findings point in precisely the contrary direction. It finds, to be sure, that technological improvements, especially in the field of transportation and communication, have impaired the value of certain political institutions, particularly those of rural local government. But this impairment suggests to the Committee, not the destruction of all government, but rather the strengthening of other institutions by way of compensation. Specifically, the Committee believes that there must be a radical revision of the areas of

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administration, although the serviceability of existing local areas may be prolonged by the practice of grants-in-aid from the superior resources of the larger and more vigorous political units. This problem of administrative areas indeed is, in the opinion of the Committee, one of the most important of current political problems. Instead of envisaging a gradual "withering-away" of government, like the technocrats and the Marxian socialists, the Committee finds that the functions of government have been rapidly expanding and believes that they are likely to continue to do so despite the grumbling of those who feel the burden of taxes or resent their failure to get what they consider their share of governmental favors. The imperfections of the existing economic order, which the Committee recognizes, doubtless portend a decline in the prestige and real importance of old-fashioned businessmen, but its report furnishes no evidence in support of the claim that only natural scientists and engineers will gain thereby. The Committee is clearly of the opinion that the future belongs also to the technician in the social arts. Though the Report was evidently composed at a time when "planning" rather than "technocracy" was the topic of the day, its findings give no aid or comfort to the technocrats and their followers.

The treatment of social organizations and social habits is more extensive than that of economic organizations. This, in view of the searching report on recent economic changes published by an earlier Hoover commission, may have been proper. It results, however, in an appearance of indifference to the phenomena of the existing depression. There seems to be a tacit assumption that in due course of time the progress of the business cycle will bring again a substantial equivalent of the late "new era," and that the social problems to be dealt with are those of a normally prosperous community. To the student of government and politics, the most surprising feature of this part of the Report is the nonchalance with which the alcohol problem is disposed of. "We see evidence," the Report states, "of rising impatience with government supervision of people in their free hours." It may be that the appointment of the Wickersham Commission excused the Committee on Social Trends from the obligation to conduct researches of its own in that particular field, but surely the findings and recommendations of that commission deserved more attention than they have received from a committee charged with the general investigation of recent social trends. Rather inconsistently, it seems, the Committee notes, a few pages after its casual reference to prohibition, that "governments are just beginning to concern themselves with the encouragement of the arts." This whole part of the Report, however, is of more immediate interest to sociologists than to political scientists, though it contains much shrewd comment on problems of government, particularly of local government.

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The treatment of ameliorative institutions and government is very unequal. Least satisfactory is the treatment of crime. On one page we are told that "whether crime is increasing or not is difficult to determine," although "the data seem to show an increase in crime since 1900." Two pages further on, we read that "organized crime . . . has grown to unprecedented dimensions since the enactment of the Eighteenth Amendment." This suggests the inference that unorganized crime is on the decline, but the Committee shares no such sanguine notion. "A society without crime," it concludes rather vaguely, "appears more remote than a society without poverty." The treatment of the problem of public health is similarly vague. "Compulsory health insurance [probably] . . . will be considered by the American public at some time in the future."

The treatment of the problems falling more strictly within the sphere of interest of teachers of American government and politics is much more satisfactory. The Committee states definitely that "it cannot be supposed that the present procedures will be able to deal effectively with the complicated types of problems certain to arise in the future, indeed already upon us." The problems of government, the Committee believes, turn about the reorganization of administrative and political areas, the reconstruction of the machinery of government, and the redistribution of authority. Of major importance, in its opinion, are the relations between government and industry. These problems are more precisely defined in the supporting chapters, and convincing evidence is produced that in a changing world political institutions cannot remain unchanged. But the Committee commits itself to no specific program of political reform beyond the advocacy of greater centralization in government, the increased employment of professional administrators in lieu of professional politicians, and a guarded proposal for a National Advisory Council in order to make conscious intelligence a greater force for social action.

The Committee's "Findings" will impress different readers differently. The Committee's principal sponsor, Mr. Hoover, and other "rugged individualists" can hardly derive much satisfaction from them. There is little here to sustain the faith in American individualism of the traditional kind. On the contrary, if the trends reported by the Committee have any significance, it is that the relations between the individual and the state should be radically revised and the functions of the latter greatly increased. It is not certain that the conventional "man-on-the-street" will like the report any better than the dogmatic individualist—or *would* like it if he should notice it. The Report seems ill-suited, both in form and in spirit, to arrest his attention. The form is excessively academic, not to say in places pedantic. What, for instance, will the man-on-the-street think of the following choice paragraph? "The alternative to constructive social initiative may conceivably be a prolongation of drift and some

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readjustment as time goes on. More definite alternatives, however, are urged by dictatorial systems in which the factors of force and violence loom. In such cases, the basic decisions are frankly imposed by power groups, and violence may subordinate technical intelligence in social advance." The Committee apparently believes that America is not safe for democracy unless the people and their rulers show more intelligence in the management of public affairs, but the man-on-the-street will not discover this without the aid of an interpreter. The spirit of the Report also is excessively academic. The volumes are crammed with problems, but there is a dearth of concrete issues over which politicians could fight the battles of the parties. Studious statesmen, like Mr. Hoover, might be able to make something out of this huge mass of material, if they were so minded, but the ordinary working politician, like the conventional average citizen, requires his food for thought predigested.

To the professional social scientist, however, the Report's apparent vices constitute its chief virtues. The Committee's language, though sometimes excessively technical, always is intelligible and provocative of thought, and its methodology is thoroughly sound. Its publications will supply a rich body of ore from which may be extracted much precious metal. This can greatly expand the stock of currency at the service of teachers of the social sciences and greatly facilitate the exchange of ideas between teacher and student. The political scientist will take particular pride in the contributions to the findings by the representatives of their special field of study. All the strictly governmental chapters are well done. Professor Merriam's concluding chapter is an exceptionally fine piece of analysis. By resisting the temptation to project trends into the future and insisting upon the importance of formulating problems rather than issues, the Committee may have lost an opportunity to spell-bind the multitude, like the technocrats, but its work will endure when that of the technocrats will have been cast aside. Those who no longer believe that the American scholar should be a servant of democracy will be disappointed with a report which discountenances every form of dictatorship, whether by proletarians, technocrats, or even sociologists. But those who recognize that the most competent social scientists are much better qualified to state the problems of contemporary society than to solve them will rejoice that this committee has so clearly understood the true function of social science. In short, the Report is a masterly service to American scholarship.

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State Constitutional Development Through Amendment in 1932. Constitutional amendments were proposed in 33 states in 1932. In 23, one or

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more were adopted. This note attempts to outline the changes made. Footnotes indicate the sections of the respective constitutions which were affected. A topical arrangement would be of value, but it is felt that the reader's convenience is better served by an arrangement by states. Space does not permit notice of defeated proposals.

Arizona. Two amendments were added to the Arizona constitution. The first repealed those sections which provided for state prohibition, and also repealed all laws enacted under those provisions.[1] The second provided that one representative should be elected for each 2,500 votes, or major fraction thereof, cast in each county for the office of governor at the last preceding general election.[2] Each county is to have at least one representative. The effect of the provision is to reduce the membership of the lower house from 64 to 37. Legislative pay is reduced from $15 to $8 per diem. Attachés are limited to 14 in the Senate and a number equal to not more than two-thirds of the membership of the House, and their pay is limited to $5 a day. Those who supported this amendment asserted that it would accomplish a saving of more than $60,000.

California. Legislation for enforcement of prohibition was repealed and an amendment adopted which will allow state regulation of the liquor traffic when permitted by the national constitution and laws. There was exempted from taxation property to the amount of $1,000 of every resident of the state who served in the army, navy, marine corps, or revenue marine service of the United States in time of war and has thereafter continued in such service, provided such person or his wife does not own property to the value of $5,000.[3] By a third amendment, proponents of any initiative or referendum petition are required to submit a draft thereof to the attorney-general with a written request that he prepare a title and summary in not to exceed 100 words.[4] Such submission must precede circulation of the petition for signatures. This amendment also reserves to proponents the right to file the original petition and requires the county clerk and registrar of voters to disregard any section thereof or supplement thereto not prepared by such proponents or by persons authorized by them in writing. A fourth amendment provides that the city of Glendale, when authorized by a majority vote at an election therefor, may repay to owners certain improvement assessments upon their property.[5] By another amendment, the city of Escondido is authorized to hold stock in a mutual water company.[6] A sixth amendment provides that the legislature may amend the state athletic commission initiative act having to do with the regulation of wrestling, boxing, etc.[7] The state's

[1] Art. XXIII, secs. 1, 2, 3, and Art. XXIV, secs. 1, 2.
[2] Art. IV, sec. 1 and repeal of sec. 22, subdivision 2.
[3] Art. XIII, sec. 1¼. [4] Art. IV, sec. 1.
[5] Art. IV, sec. 31. [6] Art. IV, sec. 31b. [7] Art. IV, sec. 25¾.

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proceeds from such exhibitions (less expenses and salaries of the commission) are to go to maintain homes for the care of war veterans.

Section 4 of Article XIII was amended so as to exempt from taxation all vessels of more than 50 tons burden registered at any port in the state and engaged in the transportation of freight or passengers. An eighth amendment extends to any public or municipal corporation within the state provisions which permit deposit in national or state banks within the state of monies belonging to or in custody of the state or any county or municipality thereof, and also provides that such public corporations may deposit money in banks outside the state for payment of principal or interest on bonds issued by such corporations and payable at places outside the state.[8] An addition to Article IV empowers the legislature to provide that the lien of every tax shall cease for all purposes 30 years after such tax became a lien, or to provide that every tax shall be conclusively presumed to have been paid after 30 years unless the property has been sold at a tax sale. The tenth, and last, amendment adopted requires a board of freeholders, within a year after their election for the purpose, to prepare a proposed city charter, and if the city's population exceeds 50,000, requires copies thereof to be printed and mailed to each elector.[9] It also requires that a petition for submission of charter amendments be filed with the city council at least 60 days before the general election next preceding a regular session of the legislature. It permits charter provision for division of a city into boroughs or districts and eliminates a provision that a borough's powers be not changed without the consent of the electors of the borough.

Colorado. Article XXII, relative to state prohibition, was amended so that after June 30, 1933, present state laws regarding intoxicating liquors shall become void and that, subject to the national constitution and laws, manufacture, sale, and distribution of such liquors within the state may be regulated by legislative action, with the exception that "no laws shall ever authorize the establishment or maintenance of any saloon."

Connecticut. An amendment was adopted giving the general assembly power to enact absent-voting legislation. A second amendment provided that an assistant town clerk may act for the town clerk in determining qualifications of voters.

Georgia. A new paragraph 3, section 4, Article III, was substituted. It provided that the general assembly should meet on the second Monday of January, 1933, and biennially thereafter, in a special ten-day session at which the only business transacted should be organization and election of officers; the inauguration of the governor-elect and other officers with concurrent terms; decision of contested elections; introduction and first reading of bills and resolutions; and impeachments. "The general as-

[8] Art. XI, sec. 16½.

[9] Art. XI, sec. 8.

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sembly shall reconvene in regular session on the second Monday after the 4th of July, 1933, and biennially thereafter." The regular session is limited to 60 days, except for the completion of impeachment trials. The legislature is empowered to fix a different time for the regular sessions. By a second amendment, Richmond county was authorized to abolish justice courts and the office of justice of the peace and of notary public *ex officio* justice of the peace.[10] A third amendment eliminates a provision that the payment of all taxes shall be necessary to the exercise of the franchise, but provides that a poll tax must be paid six months before the election in order to vote.[11] A proposal was adopted which provides that the state shall assume county debts for highways built under supervision of the state highway department as part of the system of state-aid roads.[12] Such debt is to be retired out of highway department revenues at a rate of not less than 10 per cent per annum of the total of such outstanding indebtedness, beginning March 25, 1936. An addition to paragraph 1, section 4, Article VIII, provided that county boards of education, independent school systems, and local school districts may contract with each other for the education, transportation, and care of children of school age. Another addition to the same paragraph provided that local school districts may consolidate, on condition that any bonded indebtedness be assumed by the entire district as consolidated, and on approval of two-thirds of the qualified voters of each district affected.

Idaho. By one amendment, the legislature was authorized to create a property qualification for voters in irrigation districts. A second amendment provided a method for the consolidation of counties.

Kansas. The legislature was empowered to levy a graduated and progressive tax on personal incomes from whatever source derived.

Louisiana. Fifteen amendments were proposed and adopted. The first placed sulphur in the class with oil and gas for severance taxation purposes, permitting portions of the amount collected to be refunded to the parishes and prohibiting the raising of assessments of lands because of the presence of sulphur.[13] The city of Shreveport was authorized to issue $950,000 in bonds to pay floating indebtedness.[14] Police juries were authorized to create road-lighting districts which may levy taxes up to five mills on the dollar with the approval of a majority of the resident property-holders, provided owners of a majority of the acreage affected also approve. It was provided that after July 1, 1934, there should be dedicated to the Louisiana State University and the Agricultural and Mechanical College the proceeds of the insurance taxes up to $1,000,000, in addition to the half-mill ad valorem tax now dedicated to the university.[15] The

[10] Art. VI, sec. 7.
[11] Art. II, sec. 1, par. 3.
[12] Art. VII, sec. 8, par. 1.
[13] Art. X, sec. 21.
[14] Art. XIV, sec. 31.
[15] Art. XII, sec. 17.

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fifth amendment adopted authorized the state to sell $5,000,000 bonds to pay floating indebtedness.[16] The sixth permitted harbor and terminal districts organized under authority of the legislature to lease lands and buildings.[17] Admission of any child to the public schools was prohibited until the first promotion period after he has become six years of age.[18] One automobile truck was added to the homestead, equipment, etc., to the value of $2,000, exempt from seizure and sale.[19] Number nine authorized the consolidation of road, school, levee, and drainage districts and subdistricts.[20] The tenth provided that the governor and lieutenant-governor shall take office on the day following the meeting of the legislature, instead of one week after the legislature meets, in years divisible by four.[21] The legislature meets on the second Monday in May in even numbered years.

By an eleventh amendment all bills are required to be introduced in the legislature during the first twenty days of the sixty-day session, instead of during the first thirty days.[22] There was exempted from property taxation non-profit-sharing physical culture clubs with a membership of not less than one thousand.[23] It was provided that property sold for the non-payment of taxes may be redeemed up to three years by the payment of a penalty of five per cent plus one per cent per month, instead of requiring redemption in one year with a flat penalty of twenty per cent.[24] Enabling legislation will be necessary. The fourteenth amendment authorized the city of New Orleans to sell $750,000 of bonds for the purchase of a ferry system, and made arrangement for the appointment by the mayor of a board of five to manage the system and to set fares so as to establish a fund for retirement of the bonds over a thirty-year period.[25] The final amendment provided that acreage taxes may be levied in a drainage district only after a majority of the acreage has been voted favorable to the proposition. A majority of the owners of the land affected must also approve.[26]

Maryland. An amendment to section 3, Article IV, eliminated the provision empowering the general assembly to continue in office judges who have reached the age of seventy years.

Michigan. The legislature was authorized to establish a liquor control commission, which, "subject to statutory limitations, shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof." It was also stipulated that the legislature may

[16] Art. IV, sec. 12.
[17] Art. XIV, sec. 31.
[18] Art. XII, sec. 1.
[19] Art. XI, sec. 1.
[20] Art. XIV, sec. 14, par. (k).
[21] Art. V, secs. 2, 4.
[22] Art. III, sec. 8.
[23] Art. X, sec. 4.
[24] Art. X, sec. 11.
[25] Art. XIV, sec. 31.
[26] Art. XIV, sec. 14, par. (f).

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provide for an excise tax on such sales. "However, neither the legislature nor such commission may authorize the manufacture or sale of alcoholic beverages in any county in which the electors thereof by a majority vote shall prohibit the same."[27] A tax limitation amendment was adopted, the design of which was to limit the total amount assessed against property for all purposes in any one year (except 1932) to 1½ per cent of the assessed valuation, except taxes levied for the payment of obligations already incurred; except that said limitation may be increased for not to exceed five years at any one time to not more than 5 per cent of the assessed valuation by a two-thirds vote of the electors of any assessing district or when provided for by the charter of a municipal corporation.[28] Residence in the city instead of a ward for a period of twenty days next preceding an election is required by a third amendment, which also permits the legislature to provide that the electors of a township may be voted at a township polling place located within the limits of a city which has been incorporated from territory formerly a part of the township.[29] A fourth amendment repeals a provision that whenever any question is submitted to a vote of electors which involves direct expenditure of public money or issue of bonds, every woman, having the qualifications of male electors, who has property assessed for taxes in the territory affected by the election shall be entitled to vote. It provides that no one shall be entitled to vote on such questions except such persons as have the qualifications of electors and who have property assessed for taxes in the district affected, or the husbands or wives of such persons.[30]

Minnesota. Article XVI, section 3, of the Minnesota constitution authorizes the legislature to provide for the taxation of motor vehicles on a more onerous basis than other personal property, such taxes to be in lieu of other taxes, except "wheelage" taxes imposed by boroughs, cities, or villages. An amendment to this section allows the legislature to impose such a tax upon the motor vehicles of companies paying taxes under the gross earnings system of taxation and upon the right to use such vehicles upon the public highways notwithstanding the fact that earnings from such vehicles may be included in the earnings of such companies upon which such gross earnings taxes are computed.

Mississippi. Four amendments were adopted. The first changed the

[27] Art. XVI, sec. 11.

[28] Art. X, sec. 21. In a note in the *National Municipal Review*, January, 1933, Lent D. Upson indicates that "there is grave question whether it is enforceable, and it is believed by many that the forthcoming legislature will be compelled to submit a repealing amendment, and possibly a new amendment which will undertake to accomplish the same purpose in an orderly fashion." He suggests a number of questions which may arise in the interpretation of the amendment. Recent developments appear to support his predictions.

[29] Art. III, sec. 1.

[30] Art. III, sec. 4.

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beginning of the fiscal year from the first day of October to the first day of July.[31] A second provides that appropriation bills shall not continue in force more than two months after the end of the fiscal year next following the meeting of the regular biennial session of the legislature.[32] A third provides, with relation to the qualifications of electors, that the payment of poll taxes which may have been legally required shall be the only payment of taxes requisite to entitle citizens, otherwise qualified, to vote.[33] The fourth increases the minimum age of children attending free public schools from five to six years.[34]

Missouri.[35] The general assembly was authorized to grant, or authorize the granting of, pensions to persons over seventy years of age, who are incapacitated to earn a livelihood and are without means of support.[36] A second amendment limited each house of the general assembly to 75 employees; provided for printing, before third reading, of bills as amended; and prohibited the signing of bills by the presiding officer until such printed copies have been furnished and until a correct record of the proceedings of the previous day has been furnished to members and approved. This amendment also provided for the revision of all general laws in 1939, and each ten years thereafter. At these revision sessions, after the expiration of seventy days, the general assembly is to be limited to the consideration of appropriation bills and such bills as the general assembly by express statement may determine to be revision bills, and bills specially recommended by the governor.[37] The third amendment repealed section 13 of Article V and adopted a new section 13 in its place, so as to provide for an itemized executive budget of estimated revenue and recommended expenditures. The budget is to be submitted to the general assembly within fifteen days after it convenes. The governor is to have an item veto, except in appropriations for free public school purposes.

Montana. Montana adopted two amendments. The first provides for the filling of vacancies caused by death occurring in either house of the legislative assembly by appointment by the board of county commissioners of the county in which such vacancy occurs. All vacancies occurring from any other cause shall be filled by election upon proclamation by the governor.[38] The second added to the qualifications of persons entitled to vote at general elections a provision that when a question concerning the creation of any levy, debt, or liability is to be voted on, the

[31] Sec. 115.
[32] Sec. 64.
[33] Sec. 241.
[34] Sec. 201.
[35] The writer has had the privilege of reading a manuscript, "Three Amendments to the Missouri Constitution," by George F. Robinson, Jr., of Lincoln University, Jefferson City, Mo.
[36] Art. IV, sec. 47.
[37] Repeals Art. IV, secs. 29 and 41, and adopts Art. IV, secs. 16a, 29, and 41.
[38] Art. V, sec. 45.

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person voting must show that he is a taxpayer whose name appears upon the last preceding assessment roll.[39]

New Mexico. The exchange of state lands in the national forest for lands of the United States of equal value, as provided for by act of Congress approved June 15, 1926, was authorized.[40] It was provided that no bill shall be introduced at any regular session of the legislature subsequent to the forty-fifth legislative day, except the general appropriation bill, bills to provide for the current expenses of the government, and such bills as may be referred to the legislature by the governor by special message specifically setting forth the emergency or necessity requiring such legislation.[41]

North Carolina. A provision was adopted to protect insurance for widows and children against creditors of the insured.

North Dakota. This state amended its constitution by repealing section 217, Article XX, which provided for prohibition.

Oregon. Oregon adopted five amendments. The first permits the enactment of laws limiting to taxpayers the right to vote upon questions of levying special taxes or issuing public bonds.[42] A second provides that any accused person in other than capital cases, with the consent of the trial judge, may choose to relinquish his right of trial by jury and consent to be tried by the judge alone. Such election must be in writing.[43] A third limits the amount of tax that may be levied in any year by the state, or by any county, municipality, or district, to not more than the total amount levied in any one year of the three years immediately preceding, plus six per cent thereof, except for the payment of bonded indebtedness and interest thereon. Oregon has had such a limitation based upon the levy for the last year immediately preceding.[44] The fourth amendment requires that all water for power development and water-power sites now or hereafter owned by the state be held by it perpetually, and authorizes the state to control, develop, and lease water power and power sites, to control, use, distribute, sell, and dispose of electric energy, separately or with the United States, other states, or state subdivisions to develop any water power within the state, and to acquire, construct, maintain, and/or operate hydro-electric power plants and transmission and distribution lines. The state is permitted to fix rates and charges for water power and electric energy. For these purposes, the state is permitted to incur indebtedness not exceeding six per cent of the assessed valuation of all the property in the state, notwithstanding other constitutional limitation. Any commission formed to administer these powers must be a nonpartisan one consisting of three members.[45]

[39] Art. IX, sec. 2.
[40] Art. XXI, sec. 11.
[41] Art. IV, sec. 19.
[42] Art. II, sec. 2.
[43] Art. I, sec. 11.
[44] Art. XI, sec. 11.
[45] Art. XI–d.

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South Carolina. There were adopted two amendments of state-wide application, four applying to one county each, and one applying to two counties. Of the first group, one struck out a previous requirement that when the laws of the state are periodically codified a copy of the printed code must be presented to each member of the assembly.[46] The second amendment changed the beginning of the fiscal year from January 1 to July 1.[47] A third permitted the city of Anderson to assess the cost of street improvements against abutting property and to issue bonds for such purposes. Number four related to provisions for the payment, funding, or refunding of bonds and notes heretofore issued by Dorchester county. Numbers five and seven dealt with municipal bonded indebtedness in the city of Georgetown and the towns of Manning and Walterboro. Number six authorized the legislature to enlarge the jurisdiction of the magistrates in civil cases in Sumter county to not exceeding the sum of $1,000.

Texas. Eight amendments were adopted in the Lone Star state. The first provided that the permanent university fund shall be invested in bonds of the United States, the state of Texas, or of Texas counties and cities, or Federal Farm Loan bonds. Amendment number two provided that the state, county, or defined subdivision thereof, or any other municipal corporation, may be barred from the collection of delinquent taxes after they have been due for a period of at least ten years. A third amendment permits officers and enlisted men—active, reserve, and retired—of the military services of the United States and of the state of Texas to hold other offices or positions under the United States or of the state, and to vote at any election. The fourth amendment authorized counties bordering on the Gulf of Mexico, by a two-thirds majority of the resident property taxpayers voting thereon, to levy and collect taxes and issue bonds for constructing sea-walls and breakwaters or for sanitary purposes. A fifth amendment provided that only qualified electors owning taxable property in the state, county, district, city, town, etc., where the election is held shall be qualified to vote on bond issues. Number six exempts $3,000 of the assessed taxable value of all residence homesteads from state taxes. The seventh combines into one office the offices of assessor and tax collector. The eighth provided that the legislature may authorize a Texas centennial, commemorating the heroic period of early Texas history and celebrating a century of independence and progress.

Utah. Utah adopted a constitutional provision for municipal home rule which included a method of drafting and amending charters and defined the extent of local powers in a rather general way.[48]

Wisconsin. Four amendments were adopted. The first removed all constitutional limitations relative to the governor's salary, so as to authorize

[46] Art. VI, sec. 5. [47] Art. X, sec. 10. [48] Art. XI, sec. 5.

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the legislature to fix it at less than $5,000 if it sees fit.[49] The second removed all limitations concerning the lieutenant-governor's salary, which is now fixed at $1,000, and leaves the amount to be fixed by law, in the discretion of the legislature.[50] A verbal correction was made in the section of the constitution which deals with impeachments, but made no change in impeachment procedure.[51] The fourth amendment provides that a debt created for financing a municipally owned public utility, secured solely by the property or income of such utility, and by which no municipal liability is created, will not be included as an indebtedness of the municipality in computing the borrowing power of such municipality under the constitutional 5 per cent debt limitation.[52]

West Virginia. A classified aggregate-tax-limitation amendment was adopted. The amendment also authorized the legislature to tax privileges, franchises, and incomes of persons and corporations, to classify and graduate the tax on incomes, and to make exemptions. After 1933, the rate of the state tax on property may not exceed one cent per $100 valuation, except to pay principal and interest of existing bonded indebtedness.

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[49] Art. V, sec. 5.
[50] Art. V, sec. 9.
[51] Art. VII, sec. 1.
[52] Art. XI, sec. 3.

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Reichsreform and Prussian Verwaltungsreform in 1932. Some forty years ago, the German Empire was described as "a compact between a lion, half a dozen foxes, and a score of mice."[1] Although the "lion" has lost his special prerogatives and some of the "mice" have since vanished, the problem of the "political menagerie" is still largely unsolved. Shall Germany become a unitary state, or shall it retain certain federal characteristics? What shall be the territorial organization and powers of the states and their relations to the Reich? The framers of the Weimar constitution of 1919 wrestled with these questions, but were able to reach no permanent answers.[2] The present article is an attempt to summarize recent developments bearing upon the problem of *Reichsreform*, particularly the federal aspects thereof, and to link these developments with *Verwaltungsreform* in Prussia.

There are now seventeen states, or *Länder*, in the Reich. At the one extreme stands the "lion," Prussia, with more than sixty per cent of the total area and population of Germany. At the other is Schaumburg-Lippe with 131 square miles and 48,000 inhabitants.[3] Undoubtedly, some of the states are too small to maintain the apparatus of state government, especially in these times of depression. Prussia, on the other hand, is relatively far too large, and since 1918 there has been much friction and duplication of effort between Prussian authorities and Reich authorities. Under the old Empire, the so-called "dualism" of the Reich and Prussia was less of a problem. The king of Prussia was German emperor, the federal chancellorship and the Prussian premiership were united in the hands of one man, while the Reichstag and Landtag, although distinct bodies, were not significant. By the constitution of 1919, the Reich and Prussia were divorced governmentally, in consequence of which they have often pursued conflicting policies.

With this brief introduction, it is easy to understand why the question of *Reichsreform* has been so important in the post-war period. The literature on *Reichsreform* is enormous, and has already called forth rivers of ink; but the positive results have been small. Among the many proposals for *Reichsreform*, four may be singled out as particularly noteworthy.[4]

[1] A. L. Lowell, *Government and Parties in Continental Europe* (Boston, 1896), Vol. I, p. 246.

[2] See René Brunet, *The New German Constitution* (New York, 1922), Chap. II.

[3] See table in the writer's *German Cities* (Princeton, 1932), p. 18.

[4] For an excellent account of these proposals, see Walther Vogel, *Deutsche Reichsgliederung und Reichsreform in Vergangenheit und Gegenwart* (Berlin, 1932), pp. 99-128. Cf. Max Rudolph Pohlandt, *Reich, Länder und Selbstverwaltungskörper: Grundsätzliches zur deutschen Verfassungs- und Verwaltungsreform* (Berlin, 1931); and Herbert Kraus, *The Crisis of German Democracy* (Princeton, 1932), Chap. VII.

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First is the Bavarian plan as expounded by the Bavarian premier, Dr. Held, and others. Because of the strong states' rights feeling of Bavaria, this plan naturally emphasizes the federal character of the Reich. It demands a limitation of the competence of the Reich and an extension of the powers of the states, the execution of national laws by state authorities, restoration of the states' financial autonomy, guarantees for the continued existence of the states, and the elevation of the Reichsrat to a true second chamber.

The second plan is that of Hugenberg and the German Nationalists. It was substantially the program supported by the von Papen cabinet in 1932. Even more than the Bavarian plan, the motto of the Hugenberg proposal is "Back to the constitution of Bismarck." Parliamentary government must go; Prussia must remain in its entirety without territorial dismemberment. The national president, who presumably will still be popularly elected, will at the same time be president of Prussia, and will appoint both the national and Prussian cabinets. In particular, the national chancellor will be head of the Prussian cabinet, and there will be further personal unions between national and state cabinet offices.

The third and fourth plans for *Reichsreform* reject the "back to Bismarck" solution and propose to build upon the foundation of the Weimar constitution. These proposals were formulated by the *Bund zur Erneuerung des Reiches* in 1928 and 1930, and by the so-called "constitutional committee" (*Verfassungsausschuss*) of the *Länderkonferenz* in 1929 and 1930. Especially significant is the plan of the constitutional committee. This calls for the complete absorption of the Prussian cabinet by the Reich cabinet and for the taking over of the greater part of the Prussian central administration by the Reich. The Prussian provinces are to be elevated to the position of states, but with smaller powers than the existing states of Bavaria, Baden, Saxony, and Württemberg, which are continued much as they are now. It was suggested that the small North German states should be combined with various Prussian provinces to form new states, and also that Thuringia and Hesse and the adjacent Prussian territory might be united into a single state, a sort of *Mittel-Deutschland*. However, no definite proposals of this kind were adopted, and the whole question of territorial reorganization remained in abeyance. The Prussian Landtag is to be abolished. In so far as uniform laws are required for the states carved out of the present area of Prussia, such laws will be enacted by the Reichstag as a whole, or, as an alternative, by those members of the Reichstag elected from Prussia. The new provincial states are more limited in their autonomy than the old states like Bavaria, and are more fully subordinated to the national government. However, they are fully represented in the Reichsrat. A careful division of powers between the Reich and the states is laid down, taking into account the

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two kinds of states, new and old. Each provincial state is to have its own elected legislature, a chief executive chosen by the legislature, and a nationally appointed official corresponding to the present chief president of the province.

The plan of the *Bund zur Erneuerung des Reiches* differs from that of the constitutional committee in that it does not involve the dismemberment of Prussia. This state is continued as a single *Reichsland*, but under the direct rule of national cabinet, Reichsrat, and Reichstag. However, the Prussian council of state (Staatsrat) is retained, with a right of objecting to laws relating exclusively to the provinces, or *Reichslandprovinzen* as they are now called. These *Reichslandprovinzen* are to have an increased measure of self-government. They are to be composed not merely of the existing Prussian provinces, but twelve of the small Middle and North German states are to be united with them in such a way as to form seventeen *Reichslandprovinzen*. On the other hand, the states of Baden, Bavaria, Saxony, and Württemberg are to remain as at present. The *Bund* also proposes certain changes in the composition and powers of the Reichsrat, designed to increase its effectiveness and representative character, without, however, elevating it to the position of a coördinate second chamber.

Thus far, the attempt has been to summarize plans for *Reichsreform* rather than actual accomplishments. To what extent have these plans been put into operation? Since July, 1930, Germany has been largely governed by a series of presidential emergency decrees. In order to ward off economic disaster, political revolution, and social disintegration, "dictatorial measures" were necessary. Under the authority of Article 48 of the constitution, the cabinet prepared and the president promulgated a veritable barrage of "*Notverordnungen*." Almost every phase of German economic, political, and social life was profoundly affected by these decrees. Drastic governmental economies and reorganization were prescribed. The states and the local authorities were brought under increasing national control. All this, however did not deal directly with the fundamental problem of *Reichsreform*, a problem which became more pressing as the hard times continued.

Since Article 48 had become, to use Dr. Walter Simons' phrase, "a sort of maid of all work," the possibility of using it to bring about *Reichsreform* began to be considered. In 1931, Dr. Brecht, who had been one of the leaders in framing the proposal of the constitutional committee of the *Länderkonferenz*, drew up a plan for *Reichsreform* on the basis of a presidential emergency decree to be issued under Article 48.[5] Brecht argued that *Reichsreform* could be started by means of an emergency decree if at the same time a constitutional amendment were brought forward de-

[5] For details, see the evening edition of the *Berliner Tageblatt*, Aug. 22, 1932.

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signed permanently to incorporate the changes in the constitution. Otto Braun, the Prussian premier, was favorably disposed to the plan, but preferred to proceed without resorting to Article 48. Braun began conversations with Chancellor Brüning which were broken off because of premature newspaper publicity. Brüning, moreover, wanted to defer the whole problem until the reparation question was settled, but in the meantime Brüning was forced to resign. In subsequently testifying before the *Staatsgerichtshof* at Leipzig, Dr. Brecht stated that Premier Braun had repeatedly asked Brüning to take over the premiership of Prussia, thus uniting in one man the offices of national chancellor and Prussian minister-president.

What Brüning failed to do toward abolishing the dualism of the Reich and Prussia, his successor, von Papen tried to do in a far more drastic fashion. The events leading up to the "seizure" of Prussia are still a matter of dispute and, for lack of space, cannot be discussed here. The emergency decree of July 20, 1932, whereby the Reich took over the government of Prussia reads as follows: "For the period during which this decree remains in force, the national chancellor is appointed national commissioner for Prussia. In this capacity, he is empowered to remove members of the Prussian ministry from office. He is further empowered to assume for himself the official duties of the Prussian premier and to entrust other persons with the conduct, as commissioners, of the other Prussian ministries. The chancellor may wield all the powers of the Prussian premier, and the persons designated by him to conduct the respective ministries shall have the same authority as belonged to the Prussian ministers within their departments. The chancellor and the persons entrusted by him with the conduct of the ministries shall exercise the functions of the Prussian state ministry."[6] *Reichsreform* by emergency decree had been undertaken!

The powers conferred upon von Papen as national commissioner were vigorously exercised through his deputy commissioner, Dr. Franz Bracht, chief burgomaster of Essen. The old cabinet of Braun and Severing was entirely displaced and a new hand-picked cabinet of commissioners began the work of decreeing "*Verwaltungsreform*" in Prussia. Like *Reichsreform*, *Verwaltungsreform* is a slogan much used in Germany since 1919. It refers to the simplification and improvement of governmental organization and operation, and is designed to secure greater efficiency and economy.

Verwaltungsreform has been long and much discussed in Prussia. Moreover, since the war, various reforms have actually been carried through. Thus by law of 1927, almost 12,000 manorial districts (*Guts-*

[6] RGBl., 1932, Part I, p. 377. See also Adolf Grabowsky, "Das Problem Preussen," *Zeitschrift für Politik*, Vol. XXII (Aug.-Sept., 1932), pp. 312–318.

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bezirke) were abolished. In 1929, there was an extensive territorial reorganization of local authorities in the Rhineland and Westphalia. Greater Berlin was created by act of 1920 as amended in 1931. Finally, the laws governing Prussian police administration were codified and brought up to date by the *Polizeiverwaltungsgesetz* of 1931. An extensive program of further changes was laid down in the second Prussian economy decree of 1931.[7] To a large extent, Dr. Bracht and his fellow commissioners proceeded to carry out the program of the decree of 1931. Of course, not all that they did deserves to be labelled genuine *Verwaltungsreform*. In part, the "reorganization" was nothing more than spoils politics, for numerous higher state officials with republican leanings were replaced by conservatives favorable to the new régime.

This, however, is not the whole story. In the first place, important territorial changes were decreed. Sixty district courts,[8] one government district,[9] and 58 rural counties[10] were abolished. These rural counties, or *Landkreise*, were in the main sparsely inhabited, with populations from 13,000 to 30,000. The average population of a Prussian *Landkreis* is between 35,000 and 80,000, while the most populous county has 180,000 inhabitants. Heretofore, the total number of *Landkreise* was 408; by a single cabinet decree, the number of rural counties was reduced by one-seventh. At the same time, for the purpose of setting aside enclaves, several rural counties were transferred from the jurisdiction of one province to that of another. Americans who grow impatient with the slow progress of county consolidation in the United States may well marvel at the Prussian method.

The second chapter of *Verwaltungsreform*, and one which is also significant for *Reichsreform*, is contained in a decree of Sept. 3, 1932.[11] The general aim of this decree is to simplify the administrative machinery of the state in the province, district, and county. The chief presidents of the provinces are again to become what they were a century ago. They will be general officers supervising the economic, political, social, and cultural development of their respective provinces. Certain of the detailed

[7] *Zweite Sparverordnung* of Dec. 23, 1931, GS., 1931, pp. 293–300. This decree was based on the blanket authorizations of the presidential emergency decrees of Aug. 24 and Oct. 6, 1931. See RGBl., 1931, Part I, pp. 435, 537.

[8] *Verordnung* of July 30, 1932, GS., 1932, p. 253.

[9] *Regierungsbezirk Stralsund. Verordnung* of July 30, 1932, *ibid.*, p. 277.

[10] *Verordnung über die Neugliederung von Landkreisen* of Aug. 1, 1932, *ibid.*, p. 255, supplemented by *Verordnung* of Sept. 27, *ibid.*, p. 315. See Victor von Leyden, "*Die Neugliederung der preussischen Landkreise. Ein Schritt zur Verwaltungsreform*," *Der deutsche Volkswirt*, VI (Aug. 5, 1932), pp. 1481–1483.

[11] *Verordnung* of Sept 3, GS., 1932, pp. 283–295. See von Hardenberg, "Verordnung zur Vereinfachung und Verbilligung der Verwaltung," *Staats- und Selbstverwaltung*, XIII (Oct. 2, 1932), pp. 369–374; and F. Friedensburg, "Die Pressische Verwaltungsreform," *Der deutsche Volkswirt*, VII (Oct. 7, 1932), pp. 13–15.

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functions now exercised by the chief presidents are devolved upon the district presidents. This not only is intended to avoid existing duplication of labor, but is also aimed to be a step towards *Reichsreform.*[12] When and if *Reichsreform* is carried through, the chief president will thus be in a position to become the principal national officer of the province. This, of course, is in line with the proposal of the constitutional committee of the *Länderkonferenz.* In the government districts, the various special and independent state administrative agencies are brought under direct control of the district president. The transfer of functions from chief president to district president is a step toward deconcentration of administration and supervision. Similarly, certain supervisory functions of the district president are transferred to county officers, notably the *Landrat.*

The last chapter of *Verwaltungsreform* in 1932 is found in a decree of October 29 reorganizing the Prussian state ministry.[13] The number of cabinet posts is reduced from eight to seven by the abolition of the ministry of welfare, the functions of which are transferred to other ministries. An endeavor is made to group related functions under the appropriate ministry. Thus, educational matters, formerly divided among four departments, are now largely concentrated under the ministry of education. It is expected that the process of consolidation and rearrangement between departments and within departments will result in the abolition of no less than eight bureaus and 140 divisions.[14] This reorganization was also linked up with *Reichsreform,* since von Papen attempted to unite the national cabinet and the reorganized Prussian commissary cabinet through a series of joint appointments. Thus Dr. Bracht, the deputy commissioner, was named Prussian minister of the interior and national minister without portfolio. Dr. Popitz became Prussian finance minister and national minister without portfolio. The national minister for food and agriculture was appointed Prussian minister of agriculture. This policy of interlocking the Prussian with the national cabinet through a series of joint appointments was continued by the von Schleicher and Hitler cabinets.

From the above account, one might conclude that the dualism of the Reich and Prussia has been permanently set aside. This is by no means the case. The "seizure" of Prussia aroused great controversy, and the constitutionality of the act was immediately challenged before the courts.

[12] It has often been argued that it is unnecessary to have both chief presidents and district presidents, and that one of these offices should be abolished. This argument was rejected because of the possibility of *Reichsreform.*

[13] *Zweite Verordnung zur Vereinfachung und Verbilligung der Verwaltung* of Oct. 29, GS., 1932, p. 333; see also Gramsch, "Die Umbildung der preussischen Ministerien," *Reichsverwaltungsblatt und Preussisches Verwaltungsblatt,* LIII (Nov. 12 1932), pp. 908–910.

[14] *Deutsche Allgemeine Zeitung,* Nov. 13, 1932.

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On October 25, 1932, the *Staatsgerichtshof* handed down a decision which legally wrote "*finis*" to the attempt to put through *Reichsreform* by emergency decree. This great case is discussed elsewhere in this issue of the REVIEW.[15] Here one need only point out that the court denied that Prussia can be administered permanently by the Reich under Article 48; asserted that a state cabinet cannot be removed from office under the second paragraph of Article 48; and contended that certain functions are guaranteed to state cabinets which cannot even be temporarily taken away by national emergency decree. In consequence, until after Hitler became chancellor, Prussia was ruled by a national commissioner and commissary cabinet on the one hand, and by the Braun-Severing cabinet on the other. The old dualism remained, but in altered form.

A second obstacle to *Reichsreform* by Article 48 was found in the great hostility of the other states, particularly those of South Germany, to von Papen's high-handed methods. In spite of specific assurances to the contrary, they naturally feared that what had happened to Prussia might happen to them; it has, in fact, since occurred. The states, therefore, insisted that *Reichsreform* must be carried through by constitutional methods, and not at the expense of the constitution.

The need for *Reichsreform* in Germany is greater now than ever before. Such a reform, however, may not be accomplished by emergency decree. On the other hand, the prospects of reform by constitutional amendment are not bright. To secure in the Reichstag a vote necessary to change the constitution would not be an easy matter. It was, of course, done in December, 1932, in the amendment relating to the presidential succession. That, however, was a simple matter compared to the momentous issues involved in *Reichsreform*. Even so, the problem of *Reichsreform* and the general position of the states within the Reich is one that cannot be much longer postponed.[16]

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Report on House of Lords Reform in Great Britain.[1] The recommendations embodied in this report are not sufficiently unlike the Curzon proposals to have any strong claim to novelty. All the arguments against upper houses in general and the 1922 Resolutions in particular are equally applicable to these proposals. They differ from previous Tory reports

[15] See C. J. Friedrich, "The Development of the Executive Power in Germany," above. The writer is indebted to Professor Friedrich for reading and criticizing the manuscript of the present article.

[16] It is too soon to predict what will be the final outcome of the policies of the Hitler-Hugenberg-von Papen cabinet in relation to *Reichsreform*.

[1] *Report of a Joint Committee of Peers and Members of the House of Commons*. 1932.

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mainly in their livelier apprehension of the implications of a Labor majority in the Commons. Since the Labor party first came within sight of power, every large Tory majority has produced its demand for reform of the House of Lords. "Reform from the Right" has hitherto been urged as the safeguard against "dangerous innovations," a term which has widened in significance as the Labor party has increased in strength. The Cave proposals were content to save the constitution of the reformed House of Lords from further attack by the Commons and to render the Parliament Act immune from alterations without the consent of the Lords. Now comes this new unofficial committee of fourteen Conservative members of both houses, under the chairmanship of Lord Salisbury, all of them eager to defend the people from its elected representatives. With the experience of two Labor governments, "and with the still vivid impression of political catastrophe only just escaped," they have no doubt that more is at stake than the prestige and stability of the Lords. They point out that the Cave proposals "would have done nothing to safeguard the great principles of liberty and property, nor even the foundations of the constitution, which run grave risks under the law as it stands." The House of Lords, then, is to be reformed, not primarily that it shall once again enjoy a wider power, but in order that a Labor majority —if the phrase "great principles of liberty and property" means anything —shall be faced with the possible destruction of its program.

Beginning with the usual distinction between powers and personnel, the report regards the latter alone, while it would "ease" the "healthy exercise of powers even as they now exist," as secondary to the ultimate object—"to make the House of Lords an efficient part of the legislative machine." As the law stands, an "ephemeral majority in the Commons could gravely prejudice the interests of the country, even against the country's wishes." "It follows, therefore, that during the first two or three years of a parliament there would be no limit to the constitutional power of a temporary majority of the Commons." Throughout the report, there is constant emphasis on the idea of "ephemeral" and "temporary" majorities which evokes a desire to know the exact difference, in terms of contingent evil, between an ephemeral and any other kind of majority the committee may have in mind.

Having crystallized its problem, the report proceeds to reject the suggestion of a reserve power for the Lords of requiring a referendum to the electors in case of irreconcilable difference between the two houses. The referendum is not only clumsy, expensive, and exotic; it is also "out of harmony with the British conception of the function of the electorate, which is not to make laws, but to choose law-makers." This conception makes interesting reading in the context of the committee's later proposals for an upper house of 320 members, of whom 150 are to be peers.

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It is to be hoped that the electorate will not thereby feel any undue restriction in its exercise of that function of choice.

There follows the report's main proposal: that in cases of acute difference, the "endorsement of a second House of Commons should be required before the veto of the Lords can be overridden." In other words, where the difference between the two houses is repeated in the conditions prescribed by the Parliament Act, it should require a further resolution in favor of the bill to be passed after a general election by the new House of Commons." The report admits the force of the objection that such a scheme would go too far in hampering and slowing up the legislative process. To remedy this, "it might be provided that this power of the Lords to hang up a bill could only be effectively exercised by an *absolute* majority of the house, not an impossible condition in a house the members of which have been specifically appointed—under any scheme of reformed personnel—as operative legislators; not impossible, but admittedly unusual, and obviously unlikely except in circumstances of great importance."

Financial legislation presents a different problem. "The definition of a money bill in the Parliament Act is so wide that many subjects not primarily financial in nature can be dealt with in legislation which comes within that definition. It is true that up to the present this modern method of 'tacking'— for such it is—has not been extensively used. But the present tendency is so to use it, and many good authorities consider that with very little ingenuity the method could be applied so as to cover a vast area of legislative ground and so render the safeguard, by way of holding up bills, which has just been discussed, largely nugatory. What is wanted is a more rational definition of a money bill, and a joint authority to interpret that definition." "Let us have recourse to a small standing joint committee of both houses, with the speaker as chairman, and let the definition be subject to the interpretation of this body."

It is not proposed to dispute the Commons' authority over anything that touches the raising of revenue, the public debt, or appropriation bills. But "on the expenditure side the committee believe that some effective check by a second chamber would be acceptable to the country. Judging by experience, the country is by no means satisfied that the Commons' zeal for economy can altogether be trusted. The definition of a money bill need not, therefore, except as regards appropriation bills, any longer touch expenditure." It is not hard to see the implication of this. No dangerous innovations will be put through Parliament, either as general or as financial legislation, while there is an upper house able to force a general election.

On the question of composition, the committee realizes that an increase of power may depend upon redistribution and modernization.

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"There are, indeed, general reasons of equity for a change in the proportion of political parties in the House, though in the judgment of the committee the conditions on which the minimum increase of power as suggested can be secured is by itself conclusive." In the settled judgment of the committee, such a redistribution and modernization should not mean the abolition of the hereditary principle. It is dangerous to break loose from tradition in one of the foundations of our political system, and dangerous to leave the monarchy as the only hereditary element in the constitution. Therefore, they "recommend that the House should consist of an hereditary element and an outside element: 150 members elected by proportional representation by the hereditary peerage from their own body, and 150 appointed from outside in a manner about to be described; which two elements, with certain other members to be hereafter mentioned, will make a total of some 320. The committee contemplates that the Scottish representative peers—chosen as at present—and what remain of the Irish representative peers, just as they now share in the existing functions of the House, should henceforth share in forming the panel from which is to be elected the hereditary element." There would be no restriction on the royal prerogative to create peers, and the limitation of the number of peers allowed to sit would preclude resort to the expedient of creating peers in order to overcome the resistance of the upper house. The elected peers are to sit for 12 years, a third part retiring every four years, and the first two parts to retire being chosen by lot.

With regard to the outside element, the committee recommends a system of indirect election as having the merit of securing a substantial measure of popular authority, and rejects direct election with large constituencies because the authority of the Commons might thereby be challenged. Indirect election by the Commons is also rejected as tending "to undermine that independence which a second chamber, however constituted its powers, ought to possess." Similarly, electoral colleges are considered unsuitable because they would involve an addition to the already congested number of primary elections, and because the large constituencies "required would not arouse sufficient public interest to send people to the polls." "By a process of exhaustion, therefore, the committee are clearly of opinion that the indirect electoral method must be by members of county and county borough councils." For the purposes of this scheme, the country should be grouped into electoral areas, 10 to 15 for England and Wales and one to two for Scotland, representing well defined parts of the country and comparable in respect of population. Tenure would be for 12 years, a third part retiring every fourth year; the retiring thirds in this case being chosen in the first instance according to the number of votes by which particular members have been elected. "It is believed that, among other advantages, the fact that members

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would represent an organic part or province, as it were, of the country, would afford an intelligible principle, differing from that of the House of Commons, on which the elective portions of the second chamber would be based."

In addition to the hereditary and "organic" elements, the new house would include peers of the blood royal, the two archbishops *ex officio*, and three bishops elected by their brethren. Also the lords of appeal in ordinary are to be preserved in order to maintain the working of the supreme court of appeal. Further, sex is to be no disqualification. Members' stipends are to be made up to £600 a year, and that part of the hereditary element which finds itself without a seat is not to be debarred from standing for the House of Commons.

In the event of the above scheme proving unacceptable to the Government, the committee would be prepared to support a scheme for the outside element based upon nomination—"indeed it is this alternative that many members of the committee would in fact prefer." It would, they say, have the merits of simplicity, respect for tradition, and elasticity in the readjustment of the distribution of parties; it has a precedent in the lords of appeal; it would derive directly from the crown; and "as soon as the system has got into full working order, the result would be in a special degree fair from a party point of view, because as vacancies occur, and they are filled up by the crown, the political complexion of this element in the House will come to reflect the average of the political views of successive prime ministers, that is of successive majorities of the House of Commons."

A transitional arrangement is required to bridge over the period until the automatic average of public opinion shall have time to provide a distribution of party strength acceptable to all parties. Not until this has been achieved should the prime minister's recommendation to the crown be allowed to fill vacancies. The solution is to form the past and present members of the House of Commons who are members of the Privy Council —some 117 in number—into a committee entrusted with the duty of recommending the first quota of the outside element. "With the object already stated of producing a more representative distribution of parties, the Privy Council committee might be instructed to have regard to the large Conservative majority to be expected in the hereditary element, and to aim in their recommendations at a fair representation of Labor and Liberal opinion, and, as between Conservatives and non-Conservatives, at something like equality of strength, taking the hereditary and outside elements together. This instruction would be made all the more easy to be observed by the fact—the rather surprising fact—that among the Commons privy councillors the non-Conservative members have a majority, namely 65 to 52, so that these would take care that their politi-

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cal friends are not unfairly treated." This committee might select from members of the Privy Council, members of Parliament, and peers not chosen for the hereditary element, or they might call upon lords lieutenant or Labor leaders to suggest representative names. To avoid the simultaneous appointment to a large number of vacancies which is involved in a limited tenure of seats under a nomination scheme, the report recommends that tenure should be for life or to an age limit.

What would be the effect of such changes? Given the increased power of the new House, what would be its attitude, in the light of its personnel, to legislation from the Commons. At present, the House of Lords knows that to tamper with measures which obviously possess strong electoral support is to invite the creation of new peers on a large scale. But the revised House would have a fixed composition, to be altered only with its own consent. It is, therefore, necessary to examine the political color of that composition. Peers of the blood royal do not vote. Law lords and lords spiritual, when not Conservative, are rare. In spite of proportional representation, the elected peers will be overwhelmingly Conservative, since the Labor and Liberal peers constitute but a very small fraction of the whole peerage. To ensure stability and continuity, their term of office will be long. The outside element, if elected by local authorities, is likely, especially in the counties, to be mainly Conservative, and there is sufficient foreign experience of indirect election to demonstrate the probability of corruption. So much, then, for the "effective representation of non-Conservative parties."

It is hard to see how the case is different under the alternative scheme. Conservative peers will account for nearly half the House. Granting that the transitional Privy Council scheme achieves an initial equality of strength, taking the hereditary and outside elements together, it remains certain that such equality will disappear, once the transition period is over. For each successive prime minister will appoint members of his own party, and this will mean, at best, equality of strength in the outside element. With the greater part of 150 Conservative peers, together with the nominated Conservatives, it is not unreasonable to assume an eternal Tory majority.

The proposals as to powers are even more unsatisfactory. The power to require a further resolution in favor of a bill to be passed after a general election by the new House of Commons is not far removed from the power of absolute veto. A Government faced with such opposition would suffer the certain destruction of its program. It could not even console itself with the knowledge that its opponents were better informed than itself as to public opinion. It would be forced by an assembly, at best only half elected, constantly to refer its program back to the people.

It would be naïve to inquire the meaning of "adequate representation

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of Labor in the reformed House, which the committee have much at heart." True, a substantial increase in non-Conservative representation is recommended, on grounds of equity and to justify the increase of powers. But let no one suppose that these reasons weigh more with the committee than the need for protection against dangerous innovations. It must not be imagined that the reduction of the overwhelmingly Conservative majority would be tantamount to jeopardizing what it has most at heart, for *ex hypothesi*, it cannot risk a non-Conservative upper house. Nor should consideration be given to the argument that the Commons is normally precipitate and rash. That argument can be met in a manner which does not involve the retention of a second chamber. There is, however, no need, in this case to meet it; for it is not legislation characterized by precipitancy that the committee desires to veto, but legislation characterized by a particular political color. And in accordance with this desire, such powers are to be entrusted to an upper house, of which half will represent no one but themselves, while the rest will be either the semi-authoritative delegates of parochial interest or the protégés of partisan choice.

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Should the Council of the League of Nations Establish a Permanent Minorities Commission? The guarantee clause of the Polish Minorities Treaty, which is the model for the treaties signed by eight other states, is as follows:[1] "Poland agrees that the stipulations in the foregoing articles, so far as they affect persons belonging to racial, religious, or linguistic minorities, constitute obligations of international concern and shall be placed under the guarantee of the League of Nations. They shall not be modified without the assent of a majority of the Council of the League of Nations. The United States, British Empire, France, Italy, and Japan agree not to withhold their assent from any modification in these articles which is in due form assented to by a majority of the Council of the League of Nations. Poland agrees that any member of the Council of the League of Nations shall have the right to bring to the attention of the Council any infraction, or danger of infraction, of any of these obligations, and the Council may thereupon take such action and give such direction as it may deem proper and effective in the circumstances. Poland further agrees that any difference of opinion as to questions of law or fact arising out of these articles between the Polish government and any one of the principal Allied and Associated Powers or any other Power, a member of the Council of the League of Nations, shall be held to be a dispute of an international character under Article 14 of the Covenant of the League of Nations. The Polish government hereby consents that any such dispute shall, if the other party thereto demands, be referred to the Permanent Court of International Justice. The decisions of the Permanent Court shall be final, and shall have the same force and effect as an award under Article 13 of the Covenant."

Summarized briefly, the procedure developed by the Council for executing the guarantee is as follows. A complaint is brought to the attention of the League by a petition, usually from the minority claiming a grievance. If on examination by the Minorities Section of the Secretariat the petition is deemed receivable, the Secretary-General forwards a copy to the interested government, and then, with the observations which the interested government has made, to the members of the Council. Any member may call the Council's attention to an infraction or danger of infrac-

[1] The texts of all the treaties and of the declarations which obligate six other states in a similar manner may be found in *Publications of the League of Nations*, C. L. 110. 1927. I Annexe. For an analysis of the treaties and a description of the system of protection of minorities which has developed since the war, see *Encyclopædia Britannica*, 14th ed., article on "Minorities," by the present director of the Minorities Section of the League of Nations Secretariat; *Problems of Peace*, 3rd series, Raymond N. Kershaw on "Protection of Minorities"; "The Protection of Minorities," *Geneva Special Studies*, Sept., 1931.

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tion. The usual procedure is for the petition and the observations to be examined by a committee of the Council, and for this committee to call the attention of the Council to the matter if it has failed to reach a satisfactory settlement and is of opinion that the matter merits the Council's consideration. The Council's *rapporteur* (with the assistance of the Secretariat) prepares a statement of facts and usually suggests a course of action to the Council, which may take "such action as it deems proper and effective in the circumstances."

While the responsibility for exeçuting the guarantee rests on each member of the Council, it was agreed that it was desirable to have a preliminary examination of petitions of complaint by a committee composed of three or five members appointed by the president. Each member, however, retains a right to invoke the action of the Council. The *rapporteur* is selected from among the non-European members (he has been a Japanese), who are likely to be more impartial than Europeans. The Minorities Section of the Secretariat was created by the Council to collect information, to assist the committees and the *rapporteur*, and to execute its decisions.[2]

As the result of various expressions of dissatisfaction with the existing procedure and of several proposals for modifying it, the Council appointed a special committee in March, 1929, for the purpose of examining several aspects of the minorities problem and of making recommendations to the Council concerning proposed changes in procedure. States, members of the League, were invited to make to the committee such comments as they desired. The committee met in April in London and reported in June, 1929, to the Council, meeting in Madrid, against any extensive changes. It rejected most of the concrete proposals made, and its recommendations were accepted by the Council, which authorized only a few minor alterations in the existing practice as it had developed since 1920.[3] It is the purpose here to consider two or three of these rejected proposals.

A permanent minorities commission has been suggested by the German and Hungarian governments and advocated by several international organizations and writers on minorities problems. It is proposed, on the one hand, that a permanent commission be established, composed of persons chosen because of their individual competence, for the purpose of executing the provisions of the treaties. This would amount to the substitution of a commission of experts for the Council, which is a political

[2] For a fuller description of the procedure, see the works cited above, note 1, and L. of N. C. 8. M. 5. 1931. I.

[3] The report of the London committee, the comments of various governments, and the minutes of the Council meeting in Madrid may be found in O.J., 1929, Special Supplement 73.

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body. Those advocating such a commission have not worked out their plan in sufficient detail for one to understand the rôle of the commission.[4]

On the other hand, it is proposed that a permanent commission be established for the purpose of advising the Council. Some propose that such a commission should, like the Permanent Mandates Commission, examine complaints; in other words, they would substitute a permanent commission of experts for the *ad hoc* committees of the Council. Others propose to keep the existing machinery for dealing with petitions concerning violations or dangers of violations of the treaties and to assign to a commission functions apart from the handling of complaints. They would have the commission study the problems which arise from the working of the system, investigate conditions in the various states, and advise the Council as to improvements in machinery, on questions of principle, etc., the Council continuing to be the decision-making authority.[5]

The Council has considered only one proposal for a permanent commission, i.e., that of the German government.[6] Herr Stresemann explained to the Council in March, 1929, that a permanent commission, by collecting information as to the situation of minorities, would further the attainment of the purpose of the system as it was expressed in the Council's resolution in 1920 as well as implied in the guarantee clause, namely, to see that the provisions for the protection of minorities are constantly applied. According to the present practice, he pointed out, the only way in which the guarantee entrusted to the League is put into operation is by petition, which is insufficient to insure the protection of minorities.

The advantages of a permanent commission were set forth by the German government in its letter to the London committee. That government contended that continuous investigations are required; that the existing organs engaged in executing the guarantee cannot undertake this task; that it was necessary to set up a permanent body which would gain the necessary experience to deal with the complex set of problems furnished by the existence of minorities, and which would at the same time

[4] The proposal rests on the basis of dissatisfaction with the execution by a political body of treaty provisions which, it is believed, are capable of judicial enforcement.

[5] The best example is the proposal of the German government which is discussed above. For others, see *Report of the 34th Conference of the International Law Association*, pp. 311–349; 36th Conference, p. 289.

[6] Professor Murray's resolution providing for a permanent commission, presented to the second Assembly, was withdrawn when he learned of the Council's action in creating the committees to examine petitions. *Assembly Records (1921), Plenary Session*, p. 838. In 1925, the Council's *rapporteur* on minorities, who had examined the question of the desirability of establishing a permanent commission, advised against it, and the Council did not discuss the matter. O.J., 1925, pp. 142–145.

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be removed from the influence of existing disputes. The *rapporteur* and the committees change too frequently, and, moreover, are too much concerned with petitions to examine the more general aspects of the problem. The Secretariat cannot adequately exercise the necessary supervision because, "in accordance with its constitutional status, it is a purely executive body, and cannot on its own authority take any initiative or decision. Whereas a permanent commission could survey the whole minorities problem, keep informed by using all available sources of information and make recommendations, compatible with the treaties and declaration, to the Council."

The London committee which examined the proposal rejected it because it found it inconsistent with the provisions of the treaties to permit any constant supervision with regard to the situation of minorities, even by the Council, apart from that which might be exercised in cases in which a member had called the Council's attention to an infraction or danger of infraction. At the Madrid session of the Council in June, 1929, Herr Stresemann explained, with reference to the London committee's comment, that his government had not aimed at establishing any supervisory body, but rather a body whose functions would be to "follow closely the situation and the development of the protection of minorities." The Council, however, was unwilling to adopt the proposal. The minorities states represented on the Council flatly refused to adopt any further modification of the procedure which they considered was not authorized by the treaties. M. Briand objected to the establishment of a permanent commission because of the problems that it would create, and because of the resultant danger to their solution. "The Council would have to give reality to the proposed committee. It would be necessary to define its competence and to limit its duties and powers. That would be an extremely delicate task. The question of the sovereignty of the states concerned would immediately arise, and special regard would have to be paid to the results upon the minorities themselves of the decisions which would be taken."[7]

In the general discussion of the minorities question which took place in the Sixth Committee of the Eleventh Assembly, the Albanian government's representative suggested that the creation of a permanent commission be considered. The Assembly has no authority to alter the machinery, so that, whatever the committee might have agreed was desirable, it could only make a recommendation to the Council. The representatives of other states made references to the suggestion, but it was not discussed. Representatives of the minorities states, nevertheless, took occasion to repeat their objection to any change in existing practices.[8]

[7] O.J., 1929, Special Supplement 73, p. 11.
[8] O.J., 1930, Special Supplement 90.

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Whether or not there is any immediate chance of the proposal being accepted by the Council, it deserves some attention. The decision of the London committee and the arguments of the German government may profitably be examined.

At the outset, it may be stated that the German government has not produced a good case for a permanent commission with advisory powers. Its argument to show that the existing organs are incompetent to perform the functions which it would assign to a commission is not convincing. All these functions could be performed, and are now partly performed, by the Secretariat without its doing anything inconsistent with its character. The Minorities Section of the Secretariat is already using several means of obtaining information concerning the conditions in the various states.[9] The reason it has not done more in this respect is primarily due to the lack of personnel and funds.[10] The information which it collects is available to members of the Council, to the *rapporteurs*, and to the committees. What would be gained by establishing a permanent commission to do this is not clear. For, unless it were provided with men and money it could not function. With these essentials, the Secretariat could perform the same functions. Moreover, the obstacle mentioned by M. Briand is a real one. It would be necessary to define the powers of the commission. In so doing, it would be stipulated just what sources of information would be available to it—whether, for example, its members should conduct investigations independent of the governments of the minorities states. It is unlikely that the Council and the minorities states would be willing to clothe a commission with authority any more readily than it would so clothe the Secretariat, which, possessing such authority, might equally well perform the tasks set for a permanent commission.

The International Law Association has emphasized the permanent commission as a body to deal mainly with questions of principle. It would have such a commission act as an advisory body to the committees as well as to the Council, investigate particular subjects, and conduct a survey to determine whether provisions of laws and administrative orders of the governments of obligated states violate the provisions of the treaties.[11]

[9] The Minorities Section keeps itself informed by means of a press information service in the Section, a member preparing weekly bulletins based on newspapers received from the minorities states; it keeps itself informed also by trips to the various countries, by visits which it receives from representatives of the various governments, from petitioners, and from other persons interested in the minorities question. See O.J., 1929, Special Supplement 73, p. 54.

[10] It is also due to the prevailing opinion among those engaged in executing the guarantee that more can be gained by coöperation with the governments of the obligated states than by independent action on the part of League organs, and to the cautious attitude which characterizes the League organs which execute international agreements against individual states.

[11] Report of the 34th Conference, pp. 311–349, especially pp. 342–348.

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It is undoubtedly true that the examination of a few questions of principle is now needed, and that the consideration of particular subjects might contribute to the successful operation of the system. It is also true that an investigation to determine whether governments are committing actual infractions of the treaties by legislative acts and administrative orders which, though apparently fair, may be discriminatory in effect, would be valuable. It would meet a complaint frequently heard that in some states minorities dare not, for fear of consequences, send in petitions calling attention to grievances. Again, however, there is no reason why these things could not be done by the authorities now authorized to enforce the guarantee—the Secretariat collecting information, the Council and the Permanent Court examining particular subjects and questions of principle.

In lieu of a permanent commission, the Canadian representative on the Council in 1929 proposed that petitions be examined by a committee composed of representatives of all members of the Council, and that such committee meet at frequent intervals. The objection to the present practice which M. Dandurand saw was the inexperience with minorities questions of the representatives who sit on the Council and the lack of time for careful examination of petitions and of questions arising in the course of the execution of the guarantee. The representatives sent by the various governments on the Council were usually high government officials who were often preoccupied with political affairs at home. Moreover, when in Geneva they were faced with a variety of duties which left them little time to study adequately individual questions such as the minorities cases present. He suggested that each government represented on the Council select one of its permanent officials to serve on the committee which would deal with minorities' petitions. It would thus be possible for minorities questions to be dealt with by men who would become more or less expert.[12] The London committee objected to this proposal because it believed that the impartial character of the committee which examined the petition would be destroyed by admitting to it representatives of governments which had a peculiar interest in minorities, and because it felt that the meetings of the committee "should normally take place during the sessions of the Council so as to permit of the personal attendance of the members of the Council."[13] This latter objection has little value. Although it is customary for the states which are permanently members of the Council to send as their representatives their foreign ministers, the states are free to send whom they choose. The state is the member of the Council, not the foreign minister or other person desig-

[12] O.J., 1929, April, p. 586; also p. 536.

[13] O.J., 1929, Special Supplement 73, pp. 13, 63.

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nated by the state. It is the practice of the states which are temporarily members, especially the non-European states, to be represented by ambassadors or ministers or special representatives residing near or in Geneva. Moreover, the permanent members, and often the temporary members also, send permanent government officials to accompany the official representatives, because they are specially qualified to advise them with respect to certain matters likely to come before the Council. However, the other objection to M. Dandurand's proposal, that it would destroy the disinterested character of the committee which examines the petition, is sufficient to prevent its adoption for the present.[14]

Since there is no possibility of substituting another body for the Council, there is little point in discussing here the advisability of having minorities questions examined by legal rather than by political bodies. The advantages of setting up a commission composed of legal experts are readily grasped. It is, however, arguable whether such a commission should be substituted for the Council.[15]

Whether or not the advocates of a permanent commission are familiar with the existing system for the protection of minorities, they seem to lack an appreciation of its possibilities. The system is defective in some respects, but its possibilities have not been exhausted. The one function which all of its advocates agree that a permanent commission should perform is fact-finding. More information is needed concerning the general situation in the various obligated states, concerning the grievances of minorities, and concerning the results obtained from the League's intervention. To obtain information which will be useful to the League in the performance of its duty as guarantor of the provisions of the treaties, the Minorities Section has adopted a variety of methods.[16] One desirable improvement might be made and has been proposed, i.e., giving minorities the right either to appear before the Council committees or to reply to the observations made by the interested government to which a petition has been sent. The Hungarian government has repeatedly made this proposal, and it has been considered by a *rapporteur* and by the London committee, both rejecting it.[17]

To such a proposal, state sovereignty has been looked upon as an in-

[14] *Ibid.*, pp. 63, 84–85. The London committee objected to the suggestion of the Netherlands government, which would obviate one of the possibly bad features of M. Dandurand's proposal, to permit representatives of states particularly interested in minorities to participate in the Council committee's examination of minorities questions in an advisory capacity only.

[15] For discussion of the desirability of taking the guarantee out of political hands, see especially *Les Minorités Nationales*, a periodical published by the International Union of League of Nations Associations, Brussels. See also the statement by Professor Gilbert Murray, *Problems of Peace*, 5th series, pp. 178–182; Rudolf Levy, "Minorities and International Law," in *Minorities and Boundaries*, edited by Otto E. Lessing (The Hague, 1931), p. 153.

[16] See note 9 above.

[17] For the proposal made by Count Apponyi and the statement of the *rapporteur*,

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surmountable obstacle. If the right of the minority to defend its petition were admitted, the complaintant would become, it has been asserted, a pleading party before an international tribunal, thus violating the sovereignty of the states involved. Moreover, the adoption of such a proposal would be exceeding the provisions of the treaties.[18] In the criticism, too much is assumed. The status of the minority is not precisely defined; it must be deduced from the terms of the treaties, which are drawn in general terms, from the discussions during the drafting of the treaties, and from developments during the operation of the system. Here, in respect to the proposal to give the minority, or petitioner, a hearing, it is not necessary to define the status of the minority, but only to consider how the adoption of the proposal would affect it. Would the Council's admission of a minority's right to appear before it, or before a committee, or to reply to the observations of a government, necessarily give to the minority the status of an international person or of a party to a case before an international tribunal? By virtue of the Council resolution authorizing its receipt, the petition is recognized as a source of information. If the facts presented therein were challenged, would not the Council, by admitting the right of the petitioner to substantiate the facts of the petition, simply be taking steps to verify its information? It would appear to possess that right. It has been admitted that the Council has the right to collect information "from any source without restriction."[19] Furthermore, unless the minority is recognized to have the right to appear before the Council, or a committee, independent of any act of the Council, how can its appearance by virtue of the Council's authorization necessarily change its international status?

At the present time, use may be made, and is made, by the petitioner of other expedients in order to reply to the observations of the interested government and to present his case before the League more fully than he may have done in his petition. It is recognized that the petitioner has the right to send in a supplementary petition, and that it will be accepted provided it contains new facts. This requirement should not prove very difficult to comply with.[20] Also, a petitioner, or any minority, may visit the Secretariat and there present to the members of the Minorities Section such information as he or it wishes. It would not be a great step from this present practice to that of permitting the petitioner to appear before the committee or the Council.

O.J., 1926, p. 141, p. 226 ff. See also the letter of the Hungarian government to the London committee, O.J., 1929, Special Supplement 73, p. 80; the statement of the London committee, *ibid.*, p. 62, and the *Monthly Summary*, September, 1931, p. 245.

[18] O.J., 1929, Special Supplement 73, p. 62.

[19] O.J., 1929, Special Supplement 73, p. 36.

[20] O.J., 1926, July, pp. 986–988.

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Before establishing new organs for executing the guarantee, it would be advisable to find out what the existing organs are doing and what results they are achieving. What might profitably be done is to appoint a temporary committee for the purpose of reviewing the work of the League in order to determine whether the system in operation during the past ten years has really given protection to minorities.[21] At the same time, the Permanent Court, or perhaps this committee, might be asked to examine two questions of principle upon which disagreement exists. The basis of the German government's proposal for a permanent commission is the principle that it claims is fundamental to the system, namely, that it is the duty of the League to see that the provisions of the treaties are constantly observed. This, it contends, can be accomplished only by the League doing more than act upon the receipt of a petition which, at the present time, is the only occasion when the League acts. The minorities states maintain the position that the League can act only when its attention has been called to an infraction or danger of infraction of the treaties. Furthermore, they insist that when the Council's attention is called, it shall be on the sole responsibility of an individual member. The Permanent Court might determine the meaning of the guarantee clause—whether the second paragraph is or is not explanatory of the first.[22]

The second question which might be examined is that of whether the consent of the minorities states is necessary for the adoption of any changes in existing procedure and machinery. A committee of jurists appointed by the Council has already expressed an opinion on it, but the opinion has not altogether satisfied governments and persons especially interested in the minorities question.[23]

The statistics published by the Secretary-General in pursuance of the resolution adopted by the Council in June, 1929, giving information on the work of the League with reference to the protection of minorities from June 1, 1930 to June 1, 1931, show a marked increase over the preceding year in the number of petitions received, the number declared receivable, and the number of committees appointed to examine petitions.[24] In addition to showing the increasing importance of the League's task, the report disclosed the slowness with which petitions are examined. These facts, plus other considerations previously mentioned, might justify the creation of a permanent commission. However, as suggested above, it is desirable first to investigate the existing system and to find out the re-

[21] A similar proposal was made by Joseph L. Kunz in an address before the 34th Conference of the International Law Association, *Proceedings*, 1926, p. 342.

[22] The opposing views are set forth in the letter of the German government, O.J., 1929, Special Supplement 73, p. 75, and in the letter sent by the minorities states jointly, *ibid.*, p. 70. See also the minutes of the discussion of the Eleventh Assembly, Sixth Committee, O.J., 1930, Special Supplement 90.

[23] Documents cited in above footnote and O.J., 1930 (July), Letter of Czechoslovak Government. Also O.J., April, 1929, p. 512.

[24] See page 259.

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sults obtained under it. It may be discovered that it is impossible for the League to perform its duty as guarantor of the provisions of the treaties without such an instrumentality as a permanent commission, vested with powers similar to those enjoyed by the Permanent Mandates Commission. It may be found, however, that the apparent slowness is due to the complexity of the cases and not to any fault in the system. If it be discovered that the procedure could be speeded up, it may be that the way to accomplish this is by increasing the staff of the Secretariat or by carrying out the suggestion made below, neither of which would involve the setting up of any new machinery. It may be found that the delay is due to the inability of the committee which examines petitions to act more rapidly, however efficient it is, because of the complexity of the case. If that is so, it is at least doubtful whether a single commission, even if composed of experts, and even if its only function should be that of examining petitions, could dispatch cases more speedily than could several committees.

The efficiency of the committees might be increased and their work speeded up by making a change in their present membership along the lines suggested by M. Dandurand. Each government which is a member of the Council could be represented in Geneva by an official to whom would be assigned the duty of serving on the committees appointed to examine petitions. Being in residence there, the committee could be constituted as soon after the petition was received as the reply from the interested government was obtained and the data were prepared by the Minorities Section. Being composed of officials whose primary function would be to represent the governments on them, the committees would usually be composed partially of experts in minorities questions. The adoption of this change would not necessitate any amendment to the present rules of procedure, and should meet with very few objections from the minorities states.

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[24] *Statistics on Minorities Petitions*

	1929–30	*1930–31*
Number of petitions received	57	204
Number of petitions declared receivable (115 were eliminated in 1930–31 because they overlapped with others)	31	73
Number of committees appointed (13 petitions were not referred in 1930–31)	14	45
Number of meetings of committees (In addition, 21 committees held 38 meetings to continue the examination of petitions of the year 1929–30. From September, 1921, to May, 1929, the committees appointed to examine petitions held 190 meetings.) See O.J., 1929, Special Supplement 73, p. 59. Cf. O.J., 1930, July, and O.J., 1931, August.		111

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NEWS AND NOTES

PERSONAL AND MISCELLANEOUS

Compiled by the Managing Editor

The committee on program for the next annual meeting of the American Political Science Association is as follows: Miss Louise Overacker, Wellesley College, chairman; Ralph H. Boots, University of Pittsburgh; Morris B. Lambie, University of Minnesota; John P. Senning, University of Nebraska; and Graham H. Stuart, Stanford University. The committee to nominate officers of the Association for 1934 consists of Frederick A. Middlebush, University of Missouri, chairman; John A. Fairlie, University of Illinois; Charles E. Hill, George Washington University; W. E. Mosher, Syracuse University; and Charles W. Pipkin, Louisiana State University. Both committees will be glad to receive suggestions from members of the Association.

Professor W. W. Willoughby has resigned his professorship of political science at the Johns Hopkins University, to take effect at the end of the present academic year. He will make Washington, D. C., his future home, and, with release from university responsibilities, expects to find more time for writing.

Mr. Joseph P. Pollard, author of *The Road to Repeal*, reviewed elsewhere in this number, has become a member of the political science staff at Colorado College.

Sabbatical leave for 1933–34 has been granted to Professor John A. Tillema, of George Washington University.

Professor Eugene P. Chase, of Lafayette College, is in London for the spring and summer, and is carrying on a study of English constitutional and political development.

In the early days of the Roosevelt administration, Professor Raymond Moley, of Columbia University, was appointed an assistant secretary of state.

The Storrs Lectures at the Yale School of Law were delivered on April 10–13 by Professor Harold J. Laski, of the London School of Economics and Political Science. The general subject was "The Economic Basis of Law."

Dr. Albrecht Mendelssohn-Bartholdy, director of the Foreign Policy Institute at the University of Hamburg, is spending the spring months in the United States.

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The University of Hawaii announces that in its 1933 summer session the School of Pacific and Oriental Affairs, inaugurated in the 1932 session, will be a special feature, with emphasis this year on cultural topics as last year on political and economic matters.

The fifth biennial conference of the Institute of Pacific Relations will be held from August 14 to 28 at Banff, Alberta.

Professor Howard W. Odum, of the University of North Carolina, delivered the Edward Douglas White lectures on citizenship at Louisiana State University on February 10–11.

A course of eighteen radio lectures in economics and political science is being offered to citizens of the Twin City area by members of the faculty of the University of Minnesota. Among those participating are Professors Harold S. Quigley and Lennox A. Mills.

After seven years of existence, the *United States Daily* was compelled by adverse business conditions to suspend publication on March 6. Hope was expressed by Mr. David Lawrence, president of the publishing company, that the enterprise may be revived when the situation improves.

After thirteen years of service, Professor Harold W. Dodds has retired from the editorship of the *National Municipal Review* in order to devote his time exclusively to his increasing duties at Princeton University. His successor is Mr. Howard P. Jones, public relations secretary of the National Municipal League and formerly managing editor of the *Review*. Professor Dodds will, however, serve as chairman of the League's editorial council.

The Tenth Institute of the Norman Wait Harris Memorial Foundation will be held at the University of Chicago from June 19 to 30. The topic will be "The Formation of Public Opinion on International Affairs." Several distinguished European lecturers will be present, and round tables will be organized to which American experts on the subject, as well as Europeans, will be invited.

The Institute of Politics at Williamstown, Mass., will hold no session this year. There will, however, be systematic study of the feasibility of developing the Institute's work along certain new lines, and of the possibility of procuring adequate financial support over a period of years.

Professor Clarence E. Ridley, secretary of the International City Managers Association, has announced an extensive list of correspondence courses in the field of public administration, planned to meet the needs of two groups: first, persons now in the public service who seek advance-

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ment to a higher rank, and second, those who are planning to enter the public service and need a broad training in municipal administration. The courses continue the work formerly offered at Syracuse University.

A joint meeting of the Institute of Citizenship and the Georgia Press Institute was held at Emery University from February 7 to 11. An extensive program was built around the subject, "The Press and Public Opinion." Among the speakers were Professors Harold F. Gosnell, University of Chicago; Howard W. Odum, University of North Carolina; and Charles Pergler, National University, Washington, D. C.

The College of Liberal Arts of Northwestern University announces the third year of the "Seminar in Social Science Research in Paris" under the auspices of the University of Paris, extending from June 15 to July 31. The seminar is designed to aid students and travelling fellows in the utilization of research facilities in Paris and its environs. Each member is expected to work on a special problem of his own selection, and to present reports for discussion and criticism. The seminar is open only to graduate students having a reading knowledge of French, though the proceedings are in English. Further information may be obtained from Professor William Jaffé, director, who until June 1 may be addressed at Northwestern University, Evanston, Illinois.

The twenty-seventh annual meeting of the American Society of International Law will be held in Washington on April 27–29. Among principal papers and addresses will be: "Boycott as a Sanction of International Law," Charles Cheyney Hyde, Columbia University; "Non-Recognition as a Sanction of International Law," Frederick A. Middlebush, University of Missouri; "Embargo as a Sanction of International Law," Allen W. Dulles, legal adviser to the American delegation to the Disarmament Conference; and "Intervention as a Sanction of International Law," Ellen D. Ellis, Mt. Holyoke College. Other topics to be covered include the treatment of private property of aliens on land, the rights of neutrals, machinery for the preservation of peace, and modern tendencies in arbitration, the last-mentioned subject being discussed by Frederick S. Dunn, of the Johns Hopkins University.

The tenth session of the (American) Institute of World Affairs was held at the Mission Inn, Riverside, California, from December 11 to 16. Two lectures each evening, afternoon conferences through the week, and ten round tables during the morning sessions constituted the program. Visitors from abroad were Madame Dreyfus-Barney, of the Committee on Intellectual Coöperation of the League of Nations; Dr. Inazo Nitobe, of the Imperial House of Peers in Japan; Mr. Frank A. Russell, special commissioner from Australia; and Prince A. Lobanov-Rostovsky, formerly of

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Russia; and others. Subjects dealt with included "World Economic Recovery," "The Disarmament Conference," "The Coördination of our Peace Machinery," "The Lytton Report and Manchuria," "Rival Economic Systems," "The Philippines," "The Ottawa Agreement," and "The Situation in Hawaii;" and the session was considered by far the most successful as yet held. Professor William B. Munro, of the California Institute of Technology, was added to the executive committee of the Institute.

The first session of a newly created Institute of World Affairs will be held at Mondsee, Austria, from July 1 to August 24, 1933. The Institute has been established to serve the cause of international good-will and understanding, and is sponsored by an advisory committee including such persons as Roscoe Pound, Leo S. Rowe, Albert Einstein, Robert Millikan, James T. Shotwell, James Brown Scott, Joseph Redlich, William B. Munro, Inazo Nitobe, and Stephen P. Duggan. The entire program of the Institute has not yet been announced, but among the lectures and seminars definitely arranged are five lectures by Roscoe Pound on "The Ideal in International Law," a series of lectures by Paul Monroe, director of the International Institute of Education, on "Educational and Cultural Movements in the Orient," and a seminar on "The Development of International Law with respect to Prevention of War" and five lectures on the Far East, disarmament, revision of treaties, the International Economic Conference, and war debts, by Professor Quincy Wright, of the University of Chicago. Further particulars may be secured by addressing the executive secretary of the Institute, Mr. William H. Stephenson, 2 West 45th Street, New York City.

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RADIO AS A MEANS OF INSTRUCTION IN GOVERNMENT[1]

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The gentlemen who have preceded me have discussed the relation of radio to civic education largely from the point of view of the broadcaster. I shall confine myself to making some observations on this topic from the standpoint of the listener. I count myself as one of the unnamed millions who turn on the dial and listen to the great variety of programs which come over the air. In order to focus our attention, I shall confine my remarks to the "You and Your Government" series. The time has now arrived for an appraisal of this particular enterprise in order that the objects and procedure to be followed in the days which lie ahead may be founded on clearly ascertained policies which have their roots in experience.

I have listened to most of the talks in the "You and Your Government" series from their inception. And I have been far removed from the many and complicated details which attend the broadcasting of a program of this character. All that I hear as I sit in my study are the voices of the announcer and the speakers. There is an objectivity about such an experience which all of you have felt. Voice inflection, the cadence of speech, the clarity or lack of clarity of the outline pursued in the talk, the substance of the remarks, and the amount of interest and thought which they evoke—all are weighed, almost unconsciously, by the listener. And if he disapproves, he has but to turn the dial to another program or shut off the radio altogether. The voice, to the radio listener, is to a certain extent removed from the personality of the broadcaster. In fact, the irony of the situation is simply this—that the very effect which the radio speaker desires to make upon the listener may not be realized at all.

One factor which a broadcaster should keep in mind is that in a very real sense he is in a competitive enterprise. There is a great variety of programs on the air. Before the presentation of the "You and Your Government" address, the listener may have been regaled by a specious appeal, done in the non-sectional American accent, mixed with large doses of jazz, to buy a certain cigarette which one may inhale without becoming a social outcast or to listen to the latest quotations from the Chicago stockyards. And after the talk has gone off the air, the radio listener may be plunged into another medley of jazz, Mrs. Winchell's Walter, and the

[1] This paper was read at a section meeting on "Government and Education," December 28, 1932, at the twenty-eighth annual meeting of the American Political Science Association, and is published by request of the Committee on Civic Education by Radio.

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feverish appeals of a Graham McNamee or a Ben Bernie to buy a ham, a cold cream, or another can of Blue Ribbon Malt.[2]

The first topic I shall discuss is the relation of the "You and Your Government" programs to the regularly constituted courses in political science in our colleges and universities. At Iowa State College during the past academic year, I have attempted to make the series an integral part of our introductory course in American government, entitled "The Constitution and Government of the United States." I had the following objects in mind in pursuing this project. In the first place, I desired to acquaint the students in this course—probably the only course in government which they would follow—with the fact that there is such a tribe as political scientists. We are all familiar with the fact that very few people outside of our own profession have any adequate idea of what political science is. Usually the newspaper reporter calls students of government "economists" or just "professors." The conviction has not gripped the American consciousness that politics is subject to scientific analysis. We political scientists, to state the matter bluntly, have not yet been able to induce the public in general to accept our identity to the same degree that economists and historians have succeeded in doing. To average students, Munro, Reed, Beard, White, and the rest of our fraternity are but the names of so many "guys" who inflict on students their impossible textbooks. The notion prevails amongst them that these men are dead, or ought to be! It occurred to me, therefore, that if students, in listening to these radio talks on government, could be induced to realize that political scientists actually live, that there are experts in government, and that political science is something more than political gossip, the requirement of listening to the addresses would be worth while.

In the second place, I desired students to become conversant with the persistent problems of government. It occurred to me that for students to listen to an ordered series of addresses, rather than to attempt to illustrate principles brought out in class by reading newspapers, would be an effective experiment. In my experience, undergraduates not only do not read newspapers systematically, but they have an incorrect sense of the relative importance of the first page or the editorial columns and the sporting or comic sections. Furthermore, if they do read news dispatches on political developments in Washington or at the state capital, they cannot, or do not, appreciate their relation to the principles and the

[2] The current (Winter and Spring) "You and Your Government" programs come between "two of the most popular commercial programs on the air, Amos and Andy and the Goldbergs. This juxtaposition is considered in radio circles a very favorable circumstance for our program." Report of the General Chairman, Dr. Thomas H. Reed, Committee on Policy, American Political Science Association, in this REVIEW, Feb., 1933, p. 102.

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descriptive analysis developed by the instructor. The "You and Your Government" addresses, however, offer an excellent opportunity for students to hear an expert relate the workings of government which illustrate the textbook discussions. They learn to distinguish between political gossip and a serious and orderly discussion of governmental problems.

Finally, anything that may be done to induce the undergraduate student to see that the topics discussed in class are not simply intellectual exercises, but constitute the problems arising from the actual processes of government is a legitimate teaching procedure. I was convinced that students were much more inclined to accept the observations of Madden, Upson, Lutz, and others on administrative reorganization or constructive economy in local government as they listened to the discussions, for they came to realize that these men were setting forth the problems of government as learned from first-hand contact with actual government.

With these objects in view, I mapped out a rather careful procedure.[3] First, I announced to each section the coming of the series, attempting to give a clear statement of its purposes and the subjects to be discussed, and indicating that each member of the class would be required to listen to as many of the addresses as possible. It was found to be impracticable to install a radio in the class-room. I discovered, however, that only a few students would be unable to obtain the use of one. Since the addresses are given at an early hour in the evening, students could hear them before the beginning of quiet hours. At the opening of the class period immediately prior to the address on Tuesday night, I reminded the class of the talks and used the occasion to tell it something of the speaker or speakers and their professional activities, and of the significance of the topic to be discussed.

Third, I had each student write for the *Listener's Handbook* and read, if possible, some of the references listed under each topic. The necessary books and other materials were placed on a reserve shelf in the library. Students were also advised to read the introductory statements which are to be found scattered throughout the *Handbook*. Next, I directed students, as they listened to the address of each speaker, to take notes and to write up a summary of it to be handed in at the next meeting of the class. I insisted that these papers be prepared carefully in the student's own words, and that the standards of good usage be observed. Papers deficient in the use of English were forwarded to the college

[3] This procedure, with some modifications, is being followed during the current year (1933). One of the alterations is that the student who presents convincing evidence that he cannot obtain the use of a radio is required to read an article on the same subject that is being sent over the air, to be found in such periodicals as the *Congressional Digest*, *Public Management*, etc. The student writes out a summary of the article and hands it to the instructor.

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committee on English—a committee constituted to encourage the use of good English on the campus. At the class exercise following the address or addresses, I called on three or four students to read their papers. After a student had read his paper, I made such comments in amplification of the subject discussed as seemed appropriate, often using the student's summary as the basis of an attempt to apprize the class of the reasons which made the subject discussed by the speaker important and to point out, where possible, the relation of the discussion to the problem as it exists in Iowa. After my remarks, I called upon the class to make comments.[4] If none were forthcoming, I went directly to the textbook assignment. If the assignment in the text happened to coincide with the radio-talk—as was not infrequently the case—I used the radio addresses as illustrative of the principles taken up in the text. In dealing with the radio talks, I made it a practice not to use more than ten or twelve minutes of the class period, because they were considered to be supplementary and not coördinate with the textbook work. At the close of the class exercise, I had the papers handed in. Each paper I read carefully myself, graded, and returned to the student, with comments written in the margin. If the student evinced a particular interest in the subject considered in the radio address, I encouraged him to seek further information on it in the library, supplying him with pertinent references. The grades which students earned by writing the papers were included in averaging the quarter grades. Finally, the rating form printed in the *Radio Listener's Handbook* was brought to the attention of the students, and they were requested to check the eight items on the scale. I had the checked reports handed in at the end of the quarter, and they were sent to the Committee on Civic Education by Radio in order that it might have a possible guide for formulating future programs.

In appraising this experimental enterprise, I was agreeably surprised to discover that most of the students took an increasing interest in writing the summary of each talk as the series proceeded. The exercise offered them at once an opportunity of discovering whether each could reduce the discussion on some topic on government dealt with by the radio talk to a pointed summary and of testing the effectiveness of each talk. Hearing a series of addresses made it possible for each student to compare them and to learn whether each address carried to the radio listener the points which the speakers desired to transmit. As I look back upon these papers, I am convinced that the project was worth the time and effort. The chief limitation under which the series operated as a class-room exercise was

[4] More emphasis is being placed on class discussion this year than last. If the radio talks are expository and make no attempt to present the various views on the problem under discussion, the instructor points out the other possible angles of approach.

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the fact that the individual talks did not always bear upon the subject being treated in class, although, as I have indicated, a coincidence between the textbook assignments and the radio talks occurred not infrequently, and without previous planning by the instructor.

Students, in their comments, brought out certain strictures on the addresses which may now be stated, supplemented by some reactions of my own. In the first place, too many of the speakers have a tendency to crowd excessive detail into a single talk. Of course, if details are carefully grouped around a clear outline, the deadening impact of encyclopedic minutiæ is somewhat checked. A good instance of such organization was the talk by Dr. Hatton on "Retrenching in State and Local Expenditures." Students were unanimous in their belief that Dr. Hatton, by a well-worked-out outline, succeeded in including in his remarks many points of importance without confusing the listener with a baffling array of technical detail. On the other hand, it is the belief of one discriminating student, to quote his own words, that "when scientists and economists first go on the radio, they seem to feel that because of the brevity of the radio talk, they must sacrifice organization in order to cram more facts into the time." Secondly, some of the speakers have a tendency to tell the audience *what* it should think rather than to emphasize *why* it should accept the conclusions of experts in government. In a word, there is too much assertion and not enough analysis. A series of letters which I have received from various librarians in Iowa, as well as from the managers of broadcasting stations in the state, strike a similar note.

In the second place, the talks lack a certain informality and a "give and take" which enhances the interest of discussions of this character. The import of the statement which I have just made may be understood more clearly if I summarize some of the methods employed on the air by a varied series of broadcasts dealing with public questions. One of the most interesting methods is used over WMAQ—the *Chicago News* station—in the University of Chicago Round-Table Series. A happy combination of informality of discussion or conversation and a driving consistently toward a clear statement of the problems being discussed are noteworthy features of this half-hour.[5] A large number of political and economic questions are examined at these round-table discussions. The methods pursued by the speakers are as follows. In the first place, a controversial spirit is encouraged, a clash of opinion sponsored. The evident aim of this procedure is to impress the listener with the fact that there are two sides—several sides, indeed—to public questions. I do not mean to intimate that catholicity does not permeate the "You and Your Government" talks. But I do believe that a tendency to adhere to the

[5] The criticism of the round-table method that it sometimes lacks terminal facilities is not borne out by the University of Chicago radio round-tables.

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expository method of presentation robs them of a certain appeal and, in consequence, fails to inform the listener of the possible angles of approach to the problem. Secondly, radio speakers at the University of Chicago round-table discussions, are not permitted to prepare a complete manuscript, in order to obviate a stilted presentation. The underlying idea is that the discussion must appear as nearly as possible to be ordinary conversation. Third, a coöperative outline is prepared by the participants and agreed to. The outline is examined carefully, and unnecessary matter is eliminated. Fourth, a practice session is held before the event is scheduled to go over the air, in order that each speaker may become familiar with impromptu address. As I have listened to these round-table discussions, I have been impressed with the fact that the subject-matter is made more interesting because of the informality of presentation, the vigorous clash of opinion, and the impregnation of an appropriate amount of humor. There is, in a word, a greater desire to present the materials which constitute the problem than there is to snap out professorial conclusions. I should add, however, that these attempts to make a popular appeal are not carried to the length of sacrificing accuracy and dignity.

Another series of educational broadcasts is known as "Labor and the Nation," presented each Sunday at noon Central Standard Time. This series consists of three parts. In the first place, a man or woman prominent in labor activities and dealing in a practical and authoritative manner with labor problems, speaks for twenty minutes or so on some question relating to labor. Secondly, listeners are urged to send in questions to be answered at the broadcast the week following. These questions, I have learned as I have listened to the series, deal with highly controversial matters. Finally, Mr. Spencer Miller, Jr., secretary of the Workers' Education Bureau of America, devotes the last five or six minutes allotted to the broadcast to answering the questions. I have been especially impressed with the skill and clarity with which Mr. Miller has answered these questions. True, he represents the views of labor on these problems, but he possesses a convincing sincerity which gives weight to everything he says. His manner of delivery is especially well adapted to radio address, having as he does, that very valuable possession for a radio speaker—a properly inflected voice. This series, I understand, has aroused a widespread interest, and Mr. Miller is plied with more questions than he can possibly handle in the time at his disposal. If the "You and Your Government" series may borrow a leaf from the "Labor" programs, it would be that the radio listener should be encouraged to send in questions to be answered by those who talk over the air. There is no good reason that I can think of which would prevent a "Question and Answer" period at the close of the main address or addresses. Mr. Morse Salisbury, chief of the radio service of the United States Department of Agriculture, insists that "the effective

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radio speaker has to establish a 'You and I' relationship with his listeners." The series sponsored by the American Political Science Association is entitled "You and Your Government," and I am able to think of no better way of making the title of the series mean what it says than by the establishment of a "Question and Answer" period during the last six or seven minutes of the broadcast.

The series entitled "The Economic World Today" bears, it may be suggested, the closest similarity to the "You and Your Government" broadcasts. The "Economic" series uses the colloquy somewhat more frequently than is the case with the "You and Your Government" talks. As I have listened to those who have spoken on both programs, I have been reminded of the remarks made by Mr. Salisbury before the Third Annual Institute for Education by Radio held at Ohio State University in June, 1932: "I find," he states, "that usually a person preparing a radio interview, and having had no previous experience with this type of presentation, reverts to the sort of interview most familiar to most persons—the catechism. A short question and a long answer: all question and answer; no comment back and forth. Now as I see it the aim of the interview is not to reproduce the catechism. It is to reproduce informal conversation, with the listener sitting in as a third party, enjoying the play of talk back and forth between two of his friends. Have the interviewee reply directly to every question asked, and reply in his first sentence. Don't let him start a roundabout reply that will reach the point of definite answer at the end of a whole paragraph. When the interview questions aren't squarely answered, the listener gets the impression that he is listening to a couple of soliloquies with no relation to each other. I would add one more idea. Let both interviewer and interviewee address the audience as well as each other from time to time. And address the audience as if it were one listener whom they are including in their conversation."

Besides these reactions of students in my classes to the "You and Your Government" talks, others—perhaps matters of detail—may be recorded here. No technical term should be employed by the speaker unless it is explained. When Dr. Lutz was on the air last fall, it was the general conviction of the students that he explained most pointedly the terms which he used in his treatment of efficient financial methods in public administration. Long, involved sentences should be avoided. It is true that the operations of government do not always lend themselves to facile expression. And yet, as far as may be, statements like the following should be strictly avoided: "Add to this the burden of payments of taxes and of interest and principal upon indebtedness, items that were levied or contracted to a very large extent during a higher price level, *i.e.*, when fewer bushels of wheat, fewer bales of cotton, and fewer pounds of meat were required to pay each thousand dollars due, and we have a pretty

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clear indication of why farm land values dropped." Allow me to hasten to add that an economist, not a political scientist, was guilty of this redundancy!

Finally, students continue to inquire how they may look forward to a career of public service in order that they may participate in these constructive proposals for carrying on our government. It would be convincing if Hatton or White or Anderson, or others, would specifically point out the way in a talk especially devoted to the public service as a career. Some of the students realize that many of the more permanent effects of the plans for administrative reorganization which are dealt with in the talks will be felt as each student takes his place in his respective community. The practical question which confronts them is as to how they, as citizens, can hold to the recommendations made, how they can further the process toward more efficient methods of carrying on public enterprises.

The second portion of this paper will discuss very briefly the "You and Your Government" series and the public. Three[6] stations in Iowa have been receiving and broadcasting the talks. It is obvious, of course, that political education must be given in a great variety of forms because of the great variety of circumstances and habit and thought of the people. At the First Assembly of the National Advisory Council on Radio in Education, Miss Sherwin put the problem as follows: "Political education by radio may in time realize the standards of present-day voters' schools and institutes of government. It must, however, be as timely as a newspaper story—and *informing*. . . . It must be informative, but it must be given in very small portions following a single line of thought."

Some effort has been made to measure the results of the "You and Your Government" talks in Iowa. Letters were addressed to the managers of the stations broadcasting the programs, to the librarians of several cities, and to various clubs, especially the women's clubs and the Iowa League of Women Voters. The attempt was made, with somewhat indifferent results, to obtain data on the character of the reception being accorded the talks. First, as to the size of the audience. The eastern station states that "a reasonably large number of people listen to the series." The Council Bluffs station is somewhat more pessimistic. "We receive," the manager states, "practically no letters about the program, and at times wonder whether it is at all worth while." The operators of these stations are struck with the absence of letters received in connection with the program, although they admit that they have made no special plea for them. They also express the view that most of the listeners of the series are club women. My own inquiries lead me to believe, however, that a few other groups are using the programs as the basis for debates and discussions on

[6] Two Iowa stations are now carrying the programs—KWCR (Cedar Rapids) and KOIL (Council Bluffs).

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public questions. The Jewish community center in Des Moines is an instance of this type of audience. Apparently no high school or college class in Iowa is listening in, as an organized group, to the series, with the exception, of course, of my own experiment.

Inquiries to several Iowa librarians indicate that most of them have posted the program folder on the library bulletin board, and that they have placed on their reference shelves authoritative discussions on the topics considered in the "You and Your Government" talks; but none of the libraries possesses, so far as I can ascertain, the *Listener's Handbook*. The number of inquiries for books and magazine articles which deal directly with the subjects considered in the radio talks apparently is not numerous, although the librarians admit that they have not attempted to learn the reasons which have actuated each inquirer to ask for the references which he calls for. So far as the relation of the Iowa libraries to the "You and Your Government" series is concerned, the situation is perhaps summarized by the following statement from the reference librarian at the Des Moines Public Library: "For several years, the Des-Moines Public Library has had a bulletin board in the main entrance of the library devoted to radio news and announcements. Announcements of the 'You and Your Government' series, of course, always appear on this bulletin board along with the other announcements of national and local broadcasts. When duplicate copies of these announcements are received, they are sent to the ten library branches for use on their bulletin boards. In checking up with various members of the staff, I find that no one knows definitely about anyone who is following the reading course compiled for these various national broadcasts, although from time to time various patrons have mentioned and commented upon individual ones, and very frequently we notice people reading the announcements on the radio bulletin board and taking notes. No doubt the discussions in the 'You and Your Government' series aid in this whole general discussion and in the study of these present day problems, although specific cases and instances are always difficult to trace."

The psychologists, it appears, are busily at work in various centers over the country in an attempt to measure the results of radio broadcasting as a means of instruction in civic education. It is, of course, interesting to contemplate to what extent the object expressed by Miss Sherwin is realized. In her view, "the aim of political education by radio . . . should lead not only to the formation of judgments, but to a capacity to act in harmony with the judgments formed." Several investigations are going on, I understand, to measure the effectiveness of political education by radio, notably at Ohio State University; but the data, it appears, are still too incomplete to enable the investigators to express any confident conclusions. An article in the *Survey Graphic* for November, 1932, on this

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topic by Professor Robinson of Yale reveals the results of a psychological experiment which he carried on with selected groups of women to determine the degree to which they were influenced in their political thinking by radio discussions. The chief trouble with Professor Robinson's article, besides its over-indulgence in a certain psychological jargon, is that he apparently does not know what political science is; for the talks to which he subjected his listeners dealt with economic problems and not with governmental processes. However, Professor Robinson believes, in the light of this experiment, that the discussion of public questions by experts does have some influence in eliminating prejudices which may be entertained by the women groups experimented with. So far as I know, no psychologist in Iowa has seized a group of members of the League of Women Voters to learn whether any of their political prejudices are uprooted by the "You and Your Government" talks!

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Grover Cleveland; A Study in Courage. By Allen Nevins. (New York: Dodd, Mead and Company. 1932. Pp. xiii, 832.)

Professor Nevins has given us a scholarly and excellent biography of Grover Cleveland. By the judicious use of a mass of new material, he has been able to fill some wide gaps in previous biographies, and also to set certain important events in an entirely new light. So monumental and thorough is this work that one will hardly look for another biography of Cleveland for many years to come.

The biography is well balanced. For the first time, Professor Nevins has supplied us with a full description of Cleveland's boyhood years in rural New York and of the early influences which had so much to do with the shaping of his character. These details are very interesting and are indispensable to a proper understanding of Cleveland. Indeed, one may well say that the first hundred pages of Professor Nevins' book form one of his most significant contributions to Cleveland literature. From boyhood days, Cleveland's career is traced through his experiences as a Buffalo lawyer, as sheriff, as mayor of Buffalo, as governor of New York, and as president. Emphasized throughout is the steadfast courage which serves as the basis of the sub-title of Professor Nevins' book.

In addition to the account of Cleveland's youth, already noted, certain other features of the biography are worthy of particular attention. Although certain controversies, as for instance that over tenure of office, showed that Cleveland could stand firmly in defense of the powers of the executive, he did not at first disclose the necessary qualities of aggressive leadership. Questions of sound currency, the tariff, and administrative reform called urgently for action. Deficient in imagination, Cleveland attacked problems as they confronted him. His leadership was a matter of growth (p. 342), which showed itself definitely in his tariff message of December, 1887, wherein he made an unflinching attack on the duties on necessities (p. 378) and precipitated a bitter tariff battle with the Republicans and within his own party.

Professor Nevins does not hesitate to criticize Cleveland for his share in the poor handling of the presidential campaign of 1888, both as to selection of campaign managers and for lack of energy in pushing it forward. Cleveland was also handicapped badly by the intense opposition to Governor David B. Hill in New York. A full account is given of the famous Murchison letter (pp. 428–431).

Soon after Cleveland's return to office in 1893 occurred the dramatic episode of the operation on his jaw, details of which are narrated by Professor Nevins (pp. 528–533). Cleveland's refusal to compromise over the repeal of the Silver-Purchase Act is well told, but special mention should

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be made of the discussion of the Hawaiian question. "The attempted acquisition of Hawaii in 1893 and its defeat by Cleveland constitute one of the most unjustly neglected episodes in American diplomatic history," asserts Professor Nevins (p. 549). He regards it as much more important than the Venezuelan boundary dispute, and stresses it accordingly.

In his treatment of the Pullman strike, Professor Nevins is unable to support the administration's policy wholeheartedly, but his criticism falls not so much on Cleveland as on Attorney-General Olney, who presented the facts to the President in a manner quite unfair to Governor Altgeld and to the strikers (pp. 611–628). So, too, in the dispute with Great Britain over Venezuela, it was Olney, now secretary of state, whose irascible temper "carried Cleveland further than he would have gone alone or should have gone" (p. 640). Public denunciation because of his agreements with Morgan and other New York bankers to float bond issues and the triumph of the Bryan forces in the Democratic party embittered Cleveland, but he courageously held to his principles to the end. To him eventually came the satisfaction of finding himself exceedingly popular—a prophet honored in his own country.

If any general criticism of this work were to be made, it would be that the Cleveland era is described in such detail as to cause the immediate narrative to drag at times. It is indeed a history of the period as well as a biography of Cleveland, but none the less valuable for that reason. The comprehensive bibliography, also, will prove a mine of information for future biographers of Cleveland's associates in office.

EVERETT S. BROWN.

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The Road to Repeal: Submission to Conventions. BY JOSEPH PERCIVAL POLLARD. (New York: Brentano's. 1932. Pp. xii, 209.)

This book, of course, deals with the repeal of the Eighteenth Amendment. It proceeds on the assumption that the repeal would be submitted to conventions in the forty-eight states "to be ratified by delegates who truly represent the will of the electorate on this burning problem of liberty and drink." The assumption that the question of repeal would be submitted to conventions in the several states is now supported by recent congressional action. The author centers his attack upon the state legislatures as bodies not representative of the views of the people, and condemns the methods employed by the Anti-saloon League in promoting the ratification of the Amendment.

Mr. Pollard criticizes also the inequality of representation in many state legislatures. Much that he says is true, although he makes an obviously erroneous statement regarding representation in the two houses

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of the Illinois legislature (p. 117). But he in no way analyzes the probable situation in state ratifying conventions. He has assumed that Congress has power to determine the method of representation in state ratifying conventions, and that Congress would provide representation in all of the states upon the basis of population. But in the recent argument between James M. Beck and A. Mitchell Palmer, Mr. Beck appears to have the better of it in his opinion that the states, and not Congress, must determine the composition of state ratifying conventions. And Congress has taken this view. The states are to determine the composition of ratifying conventions, and it may be that such conventions will in many cases be quite as unrepresentative as are the state legislatures. It may be, too, that delegates elected to state ratifying conventions would not be altogether immune from the same pressures that affect members of legislatures. If so, submission to state ratifying conventions may merely involve increased delay and increased expenditure. We must now await state action upon prohibition repeal before we can analyze the advantages and disadvantages of state ratifying conventions.

The volume under review is a conglomerate argument (1) that repeal should as a matter of policy be submitted to conventions rather than legislatures, and (2) that the Eighteenth Amendment was improperly submitted to state legislatures rather than to conventions. It is, in fact, impossible to tell when the argument is intended to be a legal one and when one of policy.

The book is also, to a large extent, a eulogy of Judge Clark's "monumental opinion in the case of the United States v. Sprague," and a criticism of the United States Supreme Court for disagreeing with Judge Clark. In the opinion of the present reviewer, the lengthy and incoherent opinion of Judge Clark received more attention from the Supreme Court than it deserved. The Clark opinion is of no value from a legal viewpoint, and its contribution, if any, was as a piece of press-agenting in the campaign for prohibition repeal. Advantage is taken of the present opportunity to correct any implication, either from the opinion or from Mr. Pollard's volume, that the present reviewer approved in any manner of the position taken by Judge Clark. And the present opportunity should also be taken to correct Mr. Pollard's statement (p. 153) that the New York County Lawyers' Association sponsored the view that the Eighteenth Amendment was illegally ratified.

There would be some occasion for an intelligent discussion of the relative merits of legislative and convention ratification of proposed amendments to the federal Constitution. The present volume, however, makes no contribution of value.

WALTER F. DODD.

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Tribunes of the People. By Raymond Moley. (New Haven: Yale University Press. 1932. Pp. 272.)

The Judicial System of Metropolitan Chicago. By Albert Lepawsky. (Chicago: The University of Chicago Press. 1932. Pp. xv, 265.)

The appearance of these two volumes, dealing with the administration of law in the two largest cities in this country, is indicative of the growing apprehension of the importance of urban justice, of the work of the trial as distinguished from appellate courts, and of their peculiar problems incident to the expansion of the larger cities. With this in common, the two volumes nevertheless differ widely in scope, subject-matter, and manner of presentation.

Professor Moley's *Tribunes of the People* is an unusually incisive and distinguished presentation of the problems of criminal justice in the city of New York. It derives authority not only from the author's long investigation of the subject in a large number of states, but also from the fact that it is based upon a study of the New York magistrates' court made by the author for the Seabury investigation and later for the Commission on the Administration of Justice of New York State. After a preliminary chapter reproducing first-hand descriptions of conditions in the magistrates' courts twenty years before and at the time of the investigation, it outlines the efforts made to reform the conditions in these courts, gives a succinct account of the Seabury investigation, and then deals with a number of more specific questions—the organization and jurisdiction of the magistrates' courts, the position of the clerk, "the man to see," the practices as to bail, the failure of the women's court, the ineffectiveness of the probation system, the problems involved in defense and prosecution, in the elimination of the third degree, and in the selection of magistrates and in their relations to other courts. The work is deserving of wide attention, not only because of the many important, and even fundamental, suggestions as to the reform of criminal justice which it contains, but also because, so far as the reviewer is aware, it is the best and most readable statement of the crucial problems of criminal justice in this country today.

Professor Lepawsky's book is a careful, comprehensive survey of the problems of metropolitan justice in the Chicago area, written as one of a series of studies upon the various aspects of this community. The purpose is to analyze the community's judicial problems and to suggest "how far the courts might be incorporated into a planned government for the region." According to its purpose, the volume is chiefly occupied with the judicial features of the metropolitan area, the complexities of the court structure, the imperfect distribution of litigation, technical relations between courts, the lack of effective judicial planning, qualifications and character of the judges, the uncontrolled system of judicial finances, the

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problem of assignment of judges, the deficiencies of the systems of judicial supervision and reporting. The survey concludes with a summary of general proposals for the reform and administrative integration of the courts in the Chicago area. As will be inferred from these topics, the survey is concerned primarily with the administrative functioning of the courts, and is valuable for the orderly analysis which it presents from this point of view.

HESSEL E. YNTEMA.

Johns Hopkins University.

Criminals and Politicians: A History of the Rackets' Red Rule. BY DENIS TILDEN LYNCH. (New York: The Macmillan Company. 1932. Pp. 246.)

Crime for Profit. EDITED BY ERNEST P. MACDOUGALL. (Boston: The Stratford Company. 1932. Pp. 355.)

Criminals and Politicians is a reprint of a series of special articles which the author contributed to the *New York Herald-Tribune.* In vivid, journalistic style, he describes the activities of the emperors, kings, princes, and lesser nobles of New York, Chicago, and Detroit gangdom. There is plenty of harrowing and blood-curdling narrative. Most of the gangster escapades described have appeared in the press from time to time. When, however, they are compressed between the covers of one small book, they form an impressive indictment of the social order. The cause of the racket and all that it implies is, according to Mr. Lynch, prohibition. It is difficult, nevertheless, to see the connection between the Eighteenth Amendment and the laundry racket, the milk racket, the cleaning and dyeing racket, and other present-day criminal phenomena which Mr. Lynch so fully and luridly describes. Although the book leaves one in no doubt of the relation of government officials to the crime world, there is enough evidence of the banker's relation, the business man's relation, and the lawyer's relation to the same vicious force. The title of the work leads one to the conclusion that the author considers the corruption of politicians to be in kind or degree worse than that of other classes who hold the public's purse and empty it. Certain statements are startling, as for instance the one in which we read that ex-Mayor Thompson of Chicago is a learned man, or the one following certain speakeasy estimates: "There can be no question of the honesty of these estimates; only their accuracy may be challenged."

Crime for Profit is a symposium contributed to by a number of professional men over half of whom come from Chicago and its environs. Each writer treats the subject of mercenary crime from a different angle, as for instance "Religion and Mercenary Crime," "Mercenary Crime and Education," "Mercenary Crime and Politics," and so forth. Jacob Gross-

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berg, a Chicago lawyer, writes on the last-mentioned topic, and concludes that mercenary crime will no longer be a major problem when we adopt "far-reaching political changes," to wit, ballot reform, civil service reform, and the outlawing of caucuses and slate-making. Neither the commonwealth nor crime will be shaken to their foundations by these reforms. There seems to be unanimity among the contributors in ascribing as one of the causes for mercenary crime the mercenary standards of success so characteristic of our modern industrial civilization.

There are several worth-while contributions, among the foremost of which are the articles by Jerome Davis, John T. Flynn, and David Jackson. The work is interesting and suggestive as containing the opinions of prominent students and citizens. There is little of the scientific about it.

JEROME G. KERWIN.

University of Chicago.

The Commerce Clause of the United States Constitution. By BERNARD C. GAVIT. (Bloomington, Ind.: The Principia Press, Inc. 1932. Pp. 568.)

This is a concise, generally accurate, and useful summary of United States Supreme Court cases on interstate and foreign commerce, and commerce with the Indian tribes. The text is only 386 pages long, but the author has compressed into it a surprising amount of material, which he has analyzed more fully than would be expected in a work of this size. More monographs of this type on various phases of constitutional law are needed. Some might wish for more insight into the economic and social factors at work in the formation of interstate commerce law, and in the opinion of the reviewer the treatment of the subject by Professor Gavit is weakest on this side. But to include much of this type of material would have meant a larger and different type of book.

Several appendices, including lists of cases on various phases of interstate and foreign commerce, enhance the usefulness of the volume. Appendix A summarizes all of the cases under the commerce clause in chronological order. Some of these abstracts are well done, but others are not so helpful, as, for example, No. 139, summarizing Nishimura Ekiu v. United States, 142 U. S. 651 (1892), as follows: "Federal immigration exclusion act valid under broad implied power and (possibly) commerce clause." Lord v. Goodall is misread by Professor Gavit. That case did not hold the journey to be interstate, but if anything, foreign, commerce. Subdivision D of Section 143 confuses cases involving foreign and interstate commerce. State power over the one is not always the same as state power over the other. The reviewer considers essentially unsatisfactory the practice of citing cases to prove that Congress has enacted statutes; and this is done on p. 302.

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Students and teachers, particularly those of the latter who are beginning their instructional work in constitutional law, will nevertheless find the volume a handy desk-book.

OLIVER P. FIELD.

University of Minnesota.

The American Doctrine of Judicial Supremacy. BY CHARLES GROVE HAINES. (Berkeley, California: Publications of the University of California at Los Angeles, Social Sciences, Vol. I. 1932. Pp. xiv, 705.)

In 1914, Dr. Haines published, through the Macmillan Company, a book by the same title. The present volume is designated as a "second edition revised and enlarged." The original volume, however, has been so thoroughly revised and rewritten, with addition of so much new material, that it is entitled to be considered a new book.

"The principles of law and political practice," says Dr. Haines by way of definition, "which place the guardianship of the expressed and implied terms of written constitutions primarily in courts of justice, and the dominance of judge-made law in accordance with common-law standards and principles, constitute the basis of what may appropriately be termed 'the American doctrine of judicial supremacy.' " The generally accepted opinion, he points out, that the case of Marbury v. Madison made the doctrine of judicial review of legislative acts a feature of the federal system of constitutional law is in error; in his assertion that the right to declare laws invalid was "an indispensable function of the federal judiciary," Marshall merely formulated and announced well-defined and generally accepted notions. Opposition to the doctrine of judicial supremacy from Jefferson's and Jackson's time to the present is traced in great detail. In spite of all the hostility which the doctrine and its application has aroused, "opponents of judicial review," Dr. Haines declares, "have gained little headway in convincing the American people that judicial supremacy is based upon a usurpation of authority." Popular distrust of legislative bodies has strengthened the courts in the exercise of this important power in the states as well as in the federal government. Dr. Haines concludes that "as the justices have in large measure taken upon themselves the function of judicial censorship of legislative acts, they also hold in their hands the most effective and satisfactory remedy."

Three useful appendices are added to the volume. One gives a list of sixty cases in which the Supreme Court has declared acts of Congress void. Another contains the provisions of written constitutions relating to the review of legislative acts by the courts in foreign countries. The third is a select bibliography of the subject.

Dr. Haines has given what is perhaps the best connected account of the

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origin and development of judicial power in the United States. His book is, in fact, an excellent treatise on the development of constitutional government in this country.

FRANK E. HORACK.

University of Iowa.

The French Political System. By W. L. MIDDLETON. (New York: E. P. Dutton and Company. 1933. Pp. 296.)

This is not a systematic treatise on French government. Mr. Middleton tells us nothing about the civil service or the judiciary or the commune, and very little about the details of electoral and parliamentary procedure. He is concerned with national politics in the narrower meaning of the term—with the currents of opinion, the problem of leadership, and above all the play of party. Over that somewhat murky area he has shed a welcome light. He has succeeded, better than any one else, in explaining the elusive peculiarities of the French party system.

The electoral organizations which he describes have changed little since the war. Of the seven effective parties, only the Communists are really new; the Popular Democrats carry on the tradition of the Catholic A.L.P. There are too many parties, Mr. Middleton believes, and too many *nuances* within them. Certainly the district ticket, with its second ballot, "tends to check the dispersion of force" and "to encourage the formation of the larger groupings which most observers regard as necessary for the proper working of parliamentary institutions." (This conclusion emerges from an interesting study of the transfer of votes at the second ballot.) But while tendencies toward consolidation can be observed, "it is improbable that these larger groupings will ever harden into two permanent *blocs*. . . . In their hearts the French do not desire the crushing of intermediate groups between rigid formations of Right and Left. They prefer an elastic system allowing play for varied forces of opinion."

Mr. Middleton explores "these varied forces of opinion," giving a chapter to the geographical distribution of party strength; and he also looks for the explanation of such pronounced diversity. It is the misfortune of France, as compared with England, that her political revolution occurred so late and coincided with the beginning of the industrial revolution. "To be judged fairly, the Third Republic must be regarded as the hybrid product of two distinct revolutions going on at the same time. The purely political revolution presented difficulties enough." The task of the new régime in seeking to dominate or conciliate rivals required freedom from any other preoccupations of the first magnitude. But the portentous growth of the social movement introduced fresh discords. "The nation was split up on two different and competing principles of division."

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Political diversity is more pronounced in Parliament than in the country. After the elections of 1928, the Chamber divided into thirteen groups. While six parties constituted groups that bore their own names, the numerous deputies of the Democratic Alliance were scattered among half a dozen groups. "Electorally, the Democratic Alliance has the regular attributes of a powerful party. It has its executive committee, its annual congress, its declarations of policy, its approved candidatures. There it stops short." The deputies escape control, except so far as they fear the withdrawal of party support at the next election. Mr. Middleton shows that this lack of discipline is connected with the strategic position which the Alliance occupies at the Center.

Great emphasis is laid upon the fixed mandate of the Chamber. The abandonment of the power of dissolution has involved a very real separation between party action in the country and party action in Parliament. The Chamber has become a closed arena. "Every ministerial crisis is an internal affair, to be solved without reference to the electorate. If a government falls, it is for the Chamber to produce a new one. In most cases the very nature of the emergency necessitates a displacement of majority." Here we are given a realistic picture of the process of cabinet-making from the standpoint of the groups. It is this realism, indeed—the abundance and appositeness of illustrative material, as well as sagacity in interpreting it—that gives so much character and value to the book. Mr. Middleton describes at some length the peculiar rôle of "non-party statesmen;" of Poincaré who formed five ministries, and Briand who formed eleven, without having been at any time the leader of a parliamentary party. Tardieu, Laval, and Barthou also belong to this class. In promoting ministerial combinations, the non-party statesmen perform the function of political brokers.

Mr. Middleton rarely indulges in criticism. With a sympathetic attitude, he analyzes and explains, and in doing so shows uncommon insight. As correspondent of the *London Times*, he must have been a penetrating observer. He understands the parties, the politicians, and (as appears in the last four chapters) the questions that have been agitating public opinion.

EDWARD MCCHESNEY SAIT.

Pomona College.

The Crisis of German Democracy. By HERBERT KRAUS. Edited with an Introduction by WILLIAM STARR MYERS. (Princeton: Princeton University Press. 1932. Pp. xviii, 223.)

This book had its origin in a course of lectures delivered by Dr. Kraus as exchange professor at Princeton University during the spring of 1932, under the general title of "The Spirit of the Weimar Constitution." In its present form, however, the work has been brought down to include the

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Reichstag elections of November 6, 1932. In the opinion of the reviewer, the original title more nearly expresses the content of the volume than the one finally adopted; for while additions and modifications have obviously been made, the book is still essentially what the author claimed, in his preface, as the purpose of the original lectures: "an attempt in broad outlines to introduce my hearers to the spirit of the constitution of Weimar, and also to the tendencies of our constitutional life, with particular emphasis upon the fundamental problems of our constitutional law which are of especial interest to foreigners." But the title is not important; and if, as Dr. Kraus fears, "much more blood will be shed before Germany will again attain a stable constitutional status" (p. 7), then, indeed, the present German Democracy is itself a crisis, as he explains in his first chapter wherein he justifies the use of the more alarming title.

At all events, the author begins the body of his work with a discussion of the constitution of 1871 as an essential to an understanding of the present constitution. And it *is* an essential; for although the change from Empire to Democracy was far-reaching on the social side—for example, the practical extinction of the middle class—legal development, like that of the English and American constitutions, remained deeply rooted in the past. This development is told in the first thirty-five pages. The Revolution, the democratic Republic, the principles of separation of powers, the fundamental rights of the constitution of Weimar, the Reich and the states, the Reichstag, the Reich President, and an English translation of the text of the republican constitution are the main headings which suggest the scope of the rest of the work.

Dr. Kraus has given English readers an informing and authoritative book, of far more permanent value than its title would indicate. In his description of the structure and functions of government, he has succeeded in making clear to American readers the German system by a constant comparison with our own; he has maintained throughout a good balance between theory and practice, and his knowledge of American legal and political institutions has enabled him to anticipate in large measure those features of the German constitution in which American students are likely to be most interested. The difficulties of the parliamentary system in Germany, the methods of law-making, the objections to the German system of proportional representation, and many other problems which still face the new republic are admirably set forth. Mention should also be made of the translation of the German constitution by Frau Professor Wolff, which, in the opinion of this reviewer, is the best that has thus far been achieved in English. A well-ordered index adds to the usefulness of the book.

KARL F. GEISER.

Oberlin College.

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Droit constitutionnel italien. By P. CHIMIENTI. (Paris: Marcel Giard. 1932. Pp. 647.)

Government and Politics of Italy. By HENRY RUSSELL SPENCER. (Yonkers-on-Hudson: World Book Company. 1932. Pp. xii, 307.)

It would be easy to justify, particularly at the end of a decade of Fascism, two works on Italian government, even if the only differences resulted from different points of view. Justification is much easier in the case of two books of different aim and scope by two writers of different nationality.

Professor Chimienti's work is in scope an orthodox treatise on constitutional law. Furthermore, as is not infrequently true of such treatises, it represents the content of a university course. It consists of thirty-four "lessons." Moreover, these lessons possess a peculiar element of interest. They are "official." As the sub-title of the work indicates, they form the "Official Course in 'New Italian Constitutional Legislation' at the Royal University of Rome." Italian student listeners, therefore, must have derived considerable zest from the assurance that they were getting what their American counterparts would call "the real dope." So also, it would doubtless be irrelevant rather than invidious to point out what might otherwise be regarded as errors. To take only one example, the official Italian way of electing the American President is through electors chosen by state legislatures!

Professor Chimienti's technical work consists in part of a formal account of the letter of the law, with the result that many pages could be perused without a suspicion of the existence of Fascism; and yet, of course, many other pages are at the same time an account, a defense, and a justification of the accomplishments of Mussolini, to whom the series of lessons is dedicated as "Founder of the Italian State's Public Law and Polity." The first sixteen lessons, constituting Part I of the work, treat such topics as sovereignty, the organs and functions of government, the parliamentary, American, and Fascist systems of government, and, lastly and most important, the history and sources of Italian constitutional law. Part II is divided into four sections. The first, consisting of nine lessons, treats of the composition and organization of Italian organs of government. The second, consisting of five lessons, deals with the powers and functions of these same organs. The third section consists of three instructive chapters devoted, respectively, to the National Fascist party, the Fascist Grand Council, and the National Council of Corporations. The single lesson of the fourth section bears the somewhat significant title "Individual Public Duties and Rights."

On Aristotle's principle that cooks are poor judges of a banquet, it can be doubted whether a wholly satisfactory account of Fascism may be expected from a Fascist. On the other hand, a Fascist would doubtless con-

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tend that no non-Fascist could produce a satisfactory account of Fascism, since, no matter what his effort at objectivity, he will, from the nature of the case, employ standards of judgment the validity of which Fascism by definition denies. Even if *arguendo* this point of view be accepted, Professor Spencer's excellent little book may claim high value as an antidote for an official exposition of Fascism. On the other hand, if a Fascist insistence on its own standards overdoes, as many will feel, the relative character of judgment, then Professor Spencer's small volume may claim still higher absolute value. It not only maintains the high standard of the series of Government Handbooks of which it is a part; in some respects, it even establishes a "new high." Its excellent plan is executed with a high degree of success. The author has apparently taken seriously its title; for as a handbook on the "Government and Politics of Italy," its proportions have been determined with rare nicety of judgment. After attractive preliminary discussions of the geography and people of Italy, the remaining chapters are almost exactly divided between political conditions and forces on the one hand and governmental institutions on the other. In the first category are included history, church, parties, and press. Of present-day governmental institutions, the form is well sketched, with a light touch, and the substance admirably portrayed with fuller strokes. The style, with very few lapses, is easy and pleasant, contrasting most favorably with that of Professor Chimienti's book, which, at least in James E. Grâa's French translation, makes somewhat unattractive reading. Moreover, Professor Spencer is impartial in the best sense of the word. Where means of judging are as yet not fully enough available, he correctly suspends judgment; but where the undisputed evidence is in, he does not substitute straddling for sureness of appraisal and vigor of conviction. In short, his volume is that rare phenomenon, a book one can wholeheartedly recommend.

R. K. Gooch.

University of Virginia.

The Protection of Nationals; A Study in the Application of International Law. By Frederick Sherwood Dunn. (Baltimore: The Johns Hopkins Press. 1932. Pp. viii, 223.)

In this study, Dr. Dunn, of the Page School of International Relations, applies to international law the methods of the so-called school of "young realists" in this country, and does so with noteworthy results. The sub-title would serve better as the main title: the protection of nationals is used for illustrative purposes. In eight chapters, he deals with the statement of his problem, underlying conflicts of interest, historical development of the "institution" of diplomatic protection, nature of the legal process, unacknowledged factors which influence legal decisions, the

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application of these matters to the law of diplomatic protection, and international law as a rational science. An appendix contains the Draft Convention on Responsibility of States of the Research in International Law; there is an index; and footnotes are collected at the end of the volume, which is decidedly inconvenient.

Dr. Dunn's argument may be summed up briefly as follows. International law is "a going social institution devised to serve a particular set of human needs" (p. 69). But social ends are not now taken into consideration: "the matter is left almost entirely to the intuitive action of the person making the decision" (p. 85). For every situation which may arise, there is more than one principle of law which may logically be applied; the real problem is the selection of the correct principle, and the conventional legal process gives no aid here (pp. 88, 190). There are at present, in truth, other factors which influence judicial decisions, but it is now regarded as improper to take them into account, since this would serve to deprive law of its certainty and predictability (p. 97). But since this process is now being carried on surreptitiously, there could be no loss in having it done openly (p. 192). If it is argued that the certainty of law is thereby destroyed, the answer is that there is no certainty now—merely a pretense of it (pp. 194–195). What is needed is to study empirically the factors and social ends, and convert the present haphazard process into a conscious and socially directed process. Hence, a suitable foundation must be found, and it is useless to search for it in the legal system itself; this leads only to circularity and confusion (pp. 197–198).

Where, then, should the base be sought? At this point, the reviewer has become somewhat confused. Apparently not in ethics, though we need a "suitable" foundation (p. 199). It is asserted that the base is to be sought in the purposes or functions which the legal institution is designed to fulfill today; and it is then said that these functions can be revealed by analysis of existing legal materials in their environment, after which it will become possible to restate and rearrange the body of rules and principles drawn from past practice (p. 199). But since he has already said emphatically (p. 189; *exempla*, pp. 117–118) that existing rules and principles can contribute little, that codification cannot reach the source of the difficulty, and that law must be built to accord with social purposes, one is left somewhat puzzled. Dr. Dunn approaches here dangerously near the "circularity" which he condemns at various points.

It would appear that the important thing is to give to law a foundation and a purpose; then it will be possible to make rules consistent and complete. The conservative may remark at this point that he had always supposed it to be the purpose of a law to serve a social end, and may charge Dr. Dunn with doing nothing more than substituting certain general principles of his own for those already offered. This is not Dr. Dunn's in-

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tention, but he lays himself open to the accusation in certain places, *e.g.*, in his discussion of the meaning of responsibility (pp. 116, 139). Here he objects to the statement that responsibility follows upon a violation of law, and says instead that "only those are violations which involve responsibility" (p. 116). If Dr. Dunn has any reason for this substitution, he does not make it clear. As it stands, it is illogical; surely, the duty of reparation is a consequence, rather than a definition, of responsibility!

In Chapter VII, the chief rules of the law of diplomatic protection are dissected and found wanting (1) "as a summary of past cases, (2) as a basis of forecasting future decisions, or (3) as a workable method of solving the particular problem of international responsibility that is involved" (pp. 131–132). Dr. Dunn draws upon the Draft Convention of the Research in International Law, and upon the works of Borchard and of the present reviewer; so far as the reviewer is concerned, he admits at once all the embarrassments of which Dr. Dunn speaks, and could even add a few more! There is no doubt that for most of the rules of diplomatic protection, and especially as regards the utterly inconsistent and ridiculous situation of the measure of damages, precedent and theory could offer equally good argument on at least two sides of any cases which might be presented. And the law of state responsibility is about as well worked out, with as many precedents available, as any field of international law! The reviewer would like to discuss some of these matters, but must pass them by, reserving the right to disagree with Dr. Dunn upon certain of his interpretations.

With Dr. Dunn's criticisms of present methods of reaching judicial decisions, this reviewer is in utmost sympathy. It may be argued that he is asking the judge to perform a legislative function. To this Dr. Dunn would doubtless reply (p. 200) that the judge does now change the law, surreptitiously and without admitting it, and that this procedure should be brought into the open and subjected to guiding principles.

In certain places the author has made positive statements which have need of evidence to back them up. One may ask, for example, by what authority he explains the process through which the rules of the Draft Convention were arrived at (p. 118). Again, he says (p. 178) that "it seems pointless to insist, as most authorities do, that the underlying purpose of establishing international responsibility is merely to make reparation to private individuals suffering losses." The reviewer believes that most authorities say exactly the opposite, though he agrees that this should be the purpose, and further agrees that penalty does and should exist in international law. One wonders also as to the authority for the statement (p. 163) explaining why no claims have been made against Mexico on account of recent revolutionary damages.

With Dr. Dunn's thesis in general, this reviewer heartily agrees; he re-

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gards the book as an important one, the first to do for the field of international law what such men as Cook, Llewellyn, and Yntema are doing for private law. The criticisms of present procedure seem irrefutable. It remains to be seen whether Dr. Dunn has furnished a guide for constructive solution of the problem. He may have succeeded; at any rate, his book warrants close study by international lawyers.

CLYDE EAGLETON.

New York University.

The Policy of the United States with Respect to the League of Nations. BY CLARENCE A. BERDAHL. (Publications of the Graduate Institute of International Studies, No. 4. Geneva: Librairie Kundig. 1932. Pp. 129.)

This monograph consists of a series of five lectures given at the *Institut Universitaire de Hautes Études Internationales* at Geneva in 1932, and forms the fourth of a series of studies on the policies of various states with respect to the League of Nations. The three preceding volumes cover the policies of Belgium, Denmark, and the British Dominions, respectively.

In the study under review, the author has devoted four-fifths of his space to an historical account of the American origins of the League idea, America's contribution to the establishment of the League, and a summary of the dismally futile efforts which up to the year 1932 have been put forth to bring the United States into the League of Nations and the Permanent Court of International Justice. The fifth and last chapter is devoted to a careful and painstaking analysis of the several evolutionary stages through which the United States government has passed in determining the nature of its relations with the League.

While the preceding chapters are an interesting and valuable summary of the part played by the United States in the establishment of the League and the Court, and of the political factors which, up to the present, have been instrumental in keeping us out of both of these international organizations, it is in the last chapter that the author has made his most distinct contribution. The policies—if one can dignify our inept and wavering conduct toward the League as *policy*—of the United States with respect to the League have, according to Dr. Berdahl, evolved through three successive stages. We have passed from a policy of non-recognition and hostility, through a brief stage of tolerance and unofficial coöperation, to our present position of official coöperation. Although American advocates of United States membership in the League may be able to derive but little satisfaction from this progressive development, one cannot read Dr. Berdahl's account of the respective stages without being impressed with the fact that America's relations with the League are now becoming established on a more sane, rational, and constructive basis.

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The sum total of these actual relations is convincing proof of the great distance we have traveled within the past few years. The scholarly manner in which Dr. Berdahl has mustered his material and the exceedingly clear picture he has given of all of the factors which have been brought into play in determining the course of an important part of America's foreign policy make this volume a valuable contribution to the body of League literature.

FREDERICK A. MIDDLEBUSH.

University of Missouri.

International Guarantees of Minority Rights; Procedure of the Council of the League of Nations in Theory and Practice. By JULIUS STONE. (London: Oxford University Press. 1932. Pp. xiii, 288.)

National Minorities in Europe. By OTTO JUNGHANN. (New York: Covici-Friede. 1932. Pp. 121.)

The first of these books is the best account yet written of the procedure observed by the League of Nations in executing its function as guarantor of the rights of minorities. It is evident that Mr. Stone examined all of the documentary sources and obtained first-hand knowledge of the actual practice of the League organs engaged in this work.

In the introduction, a comparison is drawn between intervention in the interest of minorities by the Great Powers before the World War and the action of the League Council under the treaties which established the present régime. The powers of the Council and the manner in which its intervention may be effected are defined in the treaties in general terms. It was left to it to determine the way in which its authority should be used. In the second part of the book, the author has described in detail the steps leading up to the Council's action: the disposition made of petitions informing the League of the existence of a grievance, the work of the Minorities Section of the Secretariat, and the procedure before the minorities committees. The third and longest part of the book describes the procedure before the Council; how it is seized, how the Council examines cases brought to its attention, and how it disposes of them. In the appendix are printed the text of the Polish Minorities Treaty (the model for all of the others), resolutions of the Council establishing rules of procedure, and a very useful table of references to Council discussions of minorities questions.

In conclusion, Mr. Stone summarizes the principles underlying the present procedure and ventures some evaluation of the system. At the basis, he finds five principles—three traceable to the peace settlement and two attributable to the experience of the Council. Those who framed the treaties set up a collective guarantee to avoid the evils of individual

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interventions, made the obligation one between states, not one between states and minorities—thus, it is asserted, denying a juridical status to the minorities—and introduced the judicial element by providing for reference of legal questions to the Permanent Court of International Justice. From their experience, the members of the Council have found it advisable to seek the coöperation of the obligated states by adopting the method of persuasion rather than that of dictation, and to rely on publicity to procure observance of the obligations.

The reviewer agrees with the opinions expressed concerning the utility of the Minorities Section, of the committees, and of the *rapporteur* of the Council, as well as concerning the desirability of maintaining the flexibility of the system while at the same time making greater use of the judicial element. He agrees also with the opinions expressed on the desirability of certain reforms, as, for example, the improvement of the arrangements for publicity, and on the undesirability of other proposals, such as that for the creation of a permanent commission to deal with minorities questions. He disagrees with the author in a few particulars, only one of which deserves mention.

In the introduction, Mr. Stone explains that the treaties designated the Council of the League as guarantor of the provisions for the protection of minorities, and that the Council accepted the duty. He then states that the Council cannot unilaterally divest itself of this obligation. The Council was created by the League Covenant, and its powers were defined by that instrument. These powers are broad enough to permit the Council to assume duties like that conferred on it by the minorities treaties. When executing these duties, the Council is bound to observe the stipulations defining its authority, but it does not follow that its freedom to divest itself of the duty is restricted.

Dr. Junghann's purpose in the second of the volumes under review is to present the fundamental issues in the problem created by the existence of national minorities. This particular problem he envisages as one of the many arising out of the eternal conflict between the claims of individuals to liberty and of society to order. The solution lies in reaching a balance. A brief account of the situation of nationalities before the World War is followed by a resumé of their present legal status as determined by municipal and international law. In another chapter, the author depicts the actual conditions where national minorities live, indicating the treatment of the different minorities under local law and administration in each of the several European states. He finds that minorities, in general, are not adequately protected, that governments do not respect the rights which have been conferred on them, and that the League has so far failed to provide any real restraints. In addition to improving the laws and the machinery of the League—the latter especially by establishing an organ

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for dealing with nationality questions as the Labor Organization does with labor questions—Dr. Junghann suggests that the states must be willing to insure individual members of all nationalities equal treatment and to concede to nationalities which are sufficiently numerous and unified a sufficient degree of autonomy to enable them to develop their culture.

In so concise a statement of the problem, generalizations are inevitable. Those which appear in this book are reasonably fair. The author has not attempted to present a thorough study of national minorities, but he has succeeded in setting forth in summary form the fundamental issues as he conceives them.

HOWARD B. CALDERWOOD.

University of Michigan.

Nationalism and Imperialism in the Hither East. By HANS KOHN. (New York: Harcourt, Brace and Company. 1932. Pp. viii, 339.)

This thoroughgoing analysis of political developments in the Arab Near East since the war constitutes a valuable supplement to the author's *History of Nationalism in the East.* The writer's first-hand knowledge of his subject, together with his critical and impartial treatment of the material, easily ranks this book as one of the outstanding works in its field. Its usefulness is increased by an appendix of some forty-five pages of explanatory notes and a valuable bibliography, in addition to adequate footnote citations throughout.

The first three chapters explain the social, economic, and political factors which have determined recent developments in the Near East. In his description of the social composition of these Arab countries, and in his analysis of the new forces of nationalism, of religion, and of the new youth and woman's movements, Dr. Kohn has demonstrated his intimate knowledge of the Near East and his understanding of the psychology of the new Arab nationalism. Some of his observations bear an interesting resemblance to those of Professor Hocking in *The Spirit of World Politics.* In Chapter IV, the author states certain fundamental assumptions as to the nature of nationalism and imperialism as revealed in the East. "In the Hither East, nationalism is exercising the intellectual and economic function that it exercised in Europe a hundred years ago." "A few years back religion was the determining factor in the East. . . . At the present day nationalism is in harmony with the newly arising social order." "The old type of imperialism is disintegrating because it has completed its civilizing task even in the East. . . . The old imperialism is still powerful, it still makes use of old and new methods to retain its hold. But the tendency of the colonial peoples to assert their national independence and equal rights is depriving imperialism first of its justification, and after-

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wards of the possibility of survival. . . . In so far as the West has a cultural mission, it can no longer be carried out through domination, but only through living together on a footing of equality and through community of interests."

In the succeeding chapters, the author deals with the clash of imperialist and nationalist interests in Egypt, Palestine, Trans-Jordan, Syria, Iraq, and Arabia. As an historical account of the post-war years, the treatment is by far the most comprehensive, detailed, and accurate that has appeared in a single volume. As a critical appraisal and interpretation, it shows rare penetration and impartiality, as well as a profound and intimate knowledge of the Near East. A case in point is the handling of General Sarrail's relations with Syria, an episode which has seldom been so fairly presented. While the indictment of French mandatory policy is especially severe, neither the British nor the French have been spared, and the criticisms are supported by an impressive bill of particulars. Where praise is due, it has been given freely, and the difficulties of the mandatories have not been overlooked. As a whole, while temperate in tone, the book is frankly critical of imperial policy in the Near East.

WALTER H. RITSHER.

American University of Beirut.

Red Russia. BY THEODORE SEIBERT. Translated by Eden and Cedar Paul from the Third Edition of *Das Rote Russland, Staat, Geist und Alltag der Bolsheviki.* (New York: The Century Company. 1932. Pp. 422.)

Writers on Soviet Russia tend to consider themselves an esoteric cult in which the criterion of membership is long residence under the Bolsheviks and consequent fluency in the language. Moreover, each writer generally sets forth in his preface that his book is the first of its kind. Dr. Seibert shares this common failing. Not only does he make the usual deprecation of the outpourings of persons who burst into print after the proverbial few weeks stay, but he asserts that of the really qualified interpreters "not one has hitherto published a comprehensive work on Soviet Russia." To supply that need, he has written this book, and has been concerned "to describe in the main, not the fugitive, but the typical and permanent, manifestations of Bolshevism." He has produced a book more comprehensive than most, but not the first (e.g., Chamberlin's). The "permanent manifestations of Bolshevism" have perhaps eluded him, as they eluded much less able aspirants in the past. Nevertheless, *Red Russia* is a careful and important study, from the point of view of a gifted German newspaper correspondent. For any one who lived in Russia during Dr. Seibert's stay, 1925–29, it has an interest which amounts in places to a fascination.

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Like most writers, Dr. Seibert begins by describing the setting—"the titantic eastern steppes, which offer the puny human spirit no resting place nor any hitching posts for memory," and the Russian people, "unstable and aimless," passive nomads, whipped on as unwilling human material for the experiment. From this base, he launches into the fate of these people under Bolshevik institutions, bringing his material somewhat up to date by judicious insertions for the English edition. Throughout, he maintains a tone of honest, but uncompromising, hostility, with an occasional moment of qualified praise.

All the stock subjects in the Russian scene are treated—the mass man, the wholesale culture, the attempts to destroy religion and the family, the war on the old-line professors. But also included are little-known subjects, such as book production and the press monopoly. On the economic side, the book is rather thin, although it contains significant statements as to the connection between the Five Year Plan and the armaments industry, and as to the high cost of the Soviet economic bureaucracy.

The most devastating chapters are in Book V, entitled "Instruments of Soviet Authority." As a correspondent, Dr. Seibert was particularly concerned with the Soviet courts during the years when so many German citizens were victims in the "staged" trials. Needless to say, he finds neither law nor justice in the Bolshevik state, but only regulations to facilitate the use of police measures for maintaining the Bolshevik dictatorship. Interesting also are his numerous sidelights on the Bolshevik leaders, their "divine right," and assumed "infallibility." Contrary to most writers, he believes that the general secretariat of the party exercises more real power than the *politbureau*.

Having painted a picture of the "great isolation barrack," peopled by "helots and slaves," the author indulges in prophecy to say: "Russia of tomorrow will not be the state of Lenin or Stalin, but will nevertheless retain a good deal of that which the Bolshevik era has created," and, further, " . . . the destiny of bolshevism and Russia will be largely influenced by the growth of their relationships to the non-Russian world," thus depending on the course of developments outside.

His conclusion, in the final chapter, "They And We," is that in spite of the aspiration of the "Red Tsar of Moscow" to be *arbiter mundi*, world legislator, and world commissioner of police, "communism will be smashed by the resistance of individual men and women who are asked to subordinate themselves wholly to a system." While deploring communism as something too utterly degrading to human dignity, he holds no brief for "old-style capitalism." His passionate ending is a plea to the Western world to fight Bolshevism" not by clinging to obsolete standards, . . . but with a full sense of revolutionary responsibility to bring into being that new commonwealth in which socialism shall live, not as a

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form, but as a spirit," with an ideal of "Ich Dien." Dr. Seibert thus reveals himself as a social crusader with a thesis of his own.

The main theme is that "Bolshevism with the self-confidence of a sleepwalker is marching toward the . . . slave state," from which dictum flows the moral: "Europe will perhaps be unable to escape putting its neck beneath the yoke of Bolshevism unless a better and finer social order and economic system can be contraposed." Because of the many references to German affairs, one gathers that Dr. Seibert's objective is to puncture the illusions current in his own country by revealing beneath the "fancy picture" of Soviet "decorative democracy" the real Bolshevism as Pharasaical, ugly, and terrible. His book is thus a combination of reporting and indictment; it has been a best-seller in Germany.

Mechanically, the book is extremely well organized. It lacks an index, but the unusually full table of contents serves as adequate guide to the numerous sub-titles in the text. The style is easy and readable, with considerable first person narrative thrown in for color. Certain of the abbreviations and transliterations are perhaps unfamiliar to the American reader, but in the main the translators have performed with their usual excellence.

BRUCE C. HOPPER.

Harvard University.

Not To Be Repeated: Merry-Go-Round of Europe. ANONYMOUS. (New York: Ray Long and Richard R. Smith. 1932. Pp. x, 521.)

The sub-title of this book is unhappily chosen, except as it suggests the circus. Merry-go-round figures, stiff, conventional, absurd, are precisely what the six or more authors do not deal with. The volume is more like a Who's Who and Why, confined to the 150 political Europeans who are most worth watching, most because they are important, some because they are irresistibly tempting to gossip about. The men and women whose names one reads in the newspapers are made to live, most vividly.

As would be expected in a collection of newspaper clippings, there is no identity and little harmony in author-view. The eight chapters on Central Europe, which extends from Angora to Zagreb, are so many witty *feuilletons* or suggestive, sharp vignettes, the one on Rumania hardly more than a royal scandal-sheet. Pilsudski is "Poland's whip;" Masaryk, Czechoslovakia's George Washington. The extraordinary achievements of Mustapha Kemal are sketched brilliantly; but this chapter concludes: "He sits there, plays poker incessantly with a group of soldier underlings, and drinks."

The chapter on Geneva, "Mecca of the Pious," is mostly amusing gossip. The reader may or may not approve the unknown author's hostility

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and irreverence. But as concerns the League, the pity is that, whoever he is, he simply does not know what it is all about.

Such material, however, is not most characteristic of the book. Along with the sauce, there is strong meat. The publisher has found five other men who give the impression of being extraordinarily sound as well as intimate in their information, and who are serious rather than scandalous-minded. They deal, to the extent of eight or nine chapters each, with Great Britain, France, Germany, Italy, and Russia.

To suggest by sample, the British chapters identify vividly some 44 political personages. The French personalities are fewer, but there are penetrating suggestions regarding the national mind, how important it is that Americans and Frenchmen understand each other, and how difficult it is for them to do so. As for Germany, there is keen analysis of her divided condition, economic, social, and hence political. She has also imported antipodal foreign "isms" which are impossible to digest. Hitler may be a fanatical lodge brother, with a genius for showmanship; but Hitlerism is a broad mass movement that has become a religious mania comparable to Islam. The writer on Italy, dealing perforce mostly with Mussolini, is impartially frank in appreciating achievements and failures. The Dictator appears as "a supreme egotist struggling to power with the ruthlessness of Napoleon, but in far more devious ways." Yet the future of the régime is extremely dubious: "All the important politico-economic moves in Italy tend toward the making of a Soviet state."

HENRY R. SPENCER.

Ohio State University.

Demokratie und Kapitalismus: Ein Versuch zur Soziologie der Staatsformen. BY DR. ALOYS FERDINAND HERMENS. (München: Duncker und Humblot. 1931. Pp. viii, 242.)

The author of this keen and original book tries to show that the forms of the state are strictly determined by its social structure. He comes to the conclusion that what have often been described as monarchy, aristocracy, and democracy have in many cases had no social reality. The real difference between the forms of the state lies in a particular social structure. This thesis is demonstrated in the various forms of *Herrschaftsstaat* (State of Domination) and in the pre-capitalistic city, peasant, and warrior democracies. But the main concern of the author is to show that modern democracy is essentially connected with the capitalistic system, and that wherever the system of capitalism reaches its full economic and social expression, the form of the state cannot be other than democratic. The existence of Fascism and Bolshevism is no serious argument against this conception, because the undeveloped economic and social conditions in such countries as Italy and Russia and the cultural

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backwardness of the population make a truly democratic government impossible. The present political chaos in Germany and the seeming failure there of democracy, in spite of the fundamentally capitalistic structure of the country, is explained only by the artificial system of proportional representation, which—according to the author—is in the sharpest conflict with the real exigencies of democracy.

The author goes even further and tries to show that the capitalistic system not only fails to lead to rigid class differences, but is the greatest possible negation of classes, creating an elasticity and mobility of social relations which cannot find other expression than democracy. All these conclusions are based on a sharp analysis of the essence of democracy and capitalism. The author shows convincingly that the identity of rulers and ruled is everywhere only a fiction, and that the real essence of democracy is *free competition in the selection of political leaders*. Where this does not exist, leadership gives place to domination and no democracy is possible. On this basis, he combats vigorously and successfully the conception of an "authoritative democracy" in the form of dictatorship. Whereas a democratic premier must always take into consideration his political competitors and possible successors, "Mussolini sends his opponents as traitors to the country to the Lipari islands." Capitalism is based on the preponderance of the free enterpreneur type, which does not tolerate any rigid stratification of economic life. Consequently, a sharp division between political rulers and the ruled masses is an impossibility. Finally, the author shows the vagueness of the term "plutocracy" and endeavors to give it a more scientific analysis. Tracing the possible developments of the capitalistic system, he is brought to believe in a more stable, less expensive, more secure, and more strongly organized economic system, which will maintain, however, the main features of capitalism and therefore also the essential qualities of democracy.

In all this, and in some other minor issues, the author bases his conclusions on a very broad synthesis of facts and is always suggestive and challenging, even if we cannot accept some of his conclusions. The brilliancy of his style is sometimes paradoxical, simplifying overmuch the complexity of a situation and stressing unduly the preponderance of the economic field over the traditional, ideologic, and emotional. As a whole, the book deserves careful study.

OSCAR JÁSZI.

Oberlin College.

Moral Man and Immoral Society. BY REINHOLD NIEBUHR. (New York: Charles Scribner's Sons. 1932. Pp. xxv, 284.)

Niebuhr is a realistic "red." Red, for he speaks in the name of the disinherited. Realistic, for he faces the fact of man's stubborn selfishness.

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He nominates most reformers, and even social scientists, the futile rationalists of the present. They rely upon dissipation of ignorance as a cure for social injustice. But the success of this presupposes abdication of men of power upon receipt of the news of their immorality. Surely, however, egoism is not so easily routed. Nor is reliance upon love any worthier: it overlooks the difference between ethics and politics, between individual and collective man. With difficulty, individual man may become moral; but collective man—man in the grip of politics—is next to incorrigible.

The highest ideal to which society can aspire is justice. And the getting and holding of justice rests upon force, not upon intelligence or religion, and pretty certainly not upon political action. Of course, coercion in itself is bad. But any instrument to the attainment of a good end has derivative goodness. And, such is the goodness of justice that coercion for the sake of justice is on the whole good. Niebuhr appeals to enlightened conscience everywhere to sustain him on the objectivity of this judgment. Still, coercion to secure justice would better not be violent; for violence heads a train of ills. It should rather be a Gandhian non-violent resistance.

The flurry which this book is causing is due—apart from its stylistic effectiveness—to the double contention that social justice depends upon and warrants the use of force. It is naturally Niebuhr's religious audience that is excited over the justification of force; and the thesis needs no comment from the standpoint of a secular ethics. But it is important, if true, that justice entails coercion. On this, Niebuhr is not convincing. He asserts, rather than proves, the insistent immorality of collective man as over against the potential morality of individuals. If he overthrows his opponents, it is by the trick of overstating their case; thus, a benevolent attitude toward human nature is magnified into a belief in its perfectibility. Finally, Niebuhr's case is strongest where his economic determinism is harshest, and hence weakest. When less tender of his thesis, he concedes many damaging illustrations. But if his arguments seem to stumble, this is not to deny the virtual truth of his insight.

Doubtless Niebuhr did not take seriously his deterministic thesis—either that or else he wished to be a martyr. Otherwise, he most certainly would have kept silent. For by the deterministic hypothesis he will win for his cause no friends, and will but warn its enemies. By hypothesis also, these enemies are overwhelming in numbers, for they include the sharers of privilege, even in minimum degree.

L. M. Pape.

University of Chicago.

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Politik. By Adolf Grabowsky. (Berlin: Industrieverlag Spaeth und Linde. 1933. Pp. 342.)

According to the author, this book is an attempt to "systematize the science of politics" on the basis of modern methods and viewpoints, in the development of which he has had a goodly share. In contrast to the older juristic treatment of the state, typical of earlier German scholars, Dr. Grabowsky conceives of the state as a dynamic personality with an autonomous life. He rejects the materialistic approach to political society and subscribes to a modified Hegelian attitude.

The book is not limited to a discussion of the theory of politics, but also undertakes to present an application of the discovered principles to practical politics, particularly in regard to Germany. All true political science, according to the author, must ultimately serve intelligent political action. This is precisely the program of the Deutsche Hochschule für Politik, at Berlin, at which Dr. Grabowsky is a professor.

The author is open-minded, free from pedantry, and stimulating. One might wish that he were sometimes a little more cautious and reserved in his opinions. The last ten pages, devoted to a survey of political ideas in the United States, contain much far-fetched and unprofitable romantic speculation, with labored philosophical explanation of very simple and obvious facts. The average scientific German work abounds in foot-notes, but this book goes to the other unsatisfactory extreme of omitting all foot-notes; and the bibliography, even as an admittedly selective one, is not sufficiently full. Considering, however, the ambitious purpose of the book and its pioneer character, the author is to be commended for his contribution. Some study of it should prove profitable to American students of politics.

Fritz-Konrad Krüger.

Wittenberg College.

BRIEFER NOTICES

AMERICAN NATIONAL GOVERNMENT AND POLITICS

Farewell to Reform; Being a History of the Rise, Life, and Decay of the Progressive Mind in America (Liveright, pp. 333), by John Chamberlain, is a critical summary of the literature, the leaders, the aims, and the Armageddons of the Progressive movement from 1890 to 1920. After sketching the pattern of the nineties, the author trenchantly analyzes the works of the novelists, the muck-rakers, the political fictionists, and the pamphleteers of the Progressive era. Then, in his chapters on "The Progressive Mind in Action" and "The Technique of Liberal Failure," he is chiefly concerned with La Follette, Roosevelt, and Wilson. The book con-

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cludes with an evaluation of Progressive achievements and a "Foray" into the theory of a planned economy in a capitalistic society. This is one of the first commentaries by a post-war author on the Progressive mind. There is no mincing matters; opinions are vigorously advanced, and the writer hits straight from the shoulder. His appraisals of Roosevelt and Wilson are, however, likely to meet with considerable disagreement. As a result of equivocation on the part of Roosevelt and the group he represented, the author asserts that "the middle sort of man now finds himself, more than ever before, between the upper Fascist millstone and the nether stone of Communism" (p. 269). Wilson is assessed heavily for failure at Versailles. The results of Progressive government, the author feels, are "minimal," and "the pet political solutions of the Progressives, designed to make government more responsible to the will of the electorate, have notoriously been weak reeds" (pp. 307–308). This book on the Progressive mind is particularly timely as we enter into the era of another "New Deal." It is cryptic, caustic, and challenging. The author bids farewell to reform of the Progressive brand and wisely refrains from predicting future group alignments in American life.—ARTHUR W. BROMAGE.

In his doctoral dissertation entitled *Certain Domestic Policies of Woodrow Wilson* (Westbrook Publishing Co., pp. 117), Paul McKown undertakes to analyze the character and quality of Wilson's political philosophy and legislative leadership through an examination of his attitude toward such problems as prohibition, woman suffrage, conservation, national defense, tariff, and labor. His conclusions may be summarized thus: 1. Wilson's greatest contribution to the presidency was his leadership, which was both positive and negative in the field of legislation. 2. Originally, Wilson viewed prohibition and woman suffrage from the standpoint of the idealist, but events converted him into a realist. 3. He made no definite contribution in tariff legislation, and in this, as well as in his attitude toward national defense, he followed party lines as far as he was able. 4. In his conservation policy, he made a definite contribution in advocating a policy of positive conservation whereby he opened up resources in small areas to individuals and corporations, leaving the ownership of the lands with the government. 5. Wilson advanced the interests of labor, but was unable to find a solution for the troubles between capital and labor. McKown does not present any new aspects in the exercise of positive legislative leadership by Wilson, but his summary of this subject is excellent and reveals a thorough appreciation of the psychological factors involved in leadership. The study is significant for its treatment of the post-war period, and the chapters on conservation and labor are particularly good. There is a tendency, however, throughout the study to dwell too much on the history of problems prior to the Wilson administrations. Moreover,

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the author states that no previous study has been made of the negative side of Wilson's legislative leadership, and yet he does not avail himself of his excellent opportunity to supply this deficiency, contenting himself merely with a fourfold classification of motives for the exercise of the veto power, and not supporting his classification with sufficient proof.—ELIZABETH A. WEBER.

Indian Affairs and Their Administration (University of Pennsylvania Press, pp. viii, 263), by Alban W. Hoopes, is a thesis in which the author outlines the more important aspects of the Indian situation in the Far West and the development of the government's Indian policy from 1849 to 1860, with special reference to the inauguration of the reservation system. Chapters devoted to the effects of westward expansion upon the Indian problem and the organization and personnel of the Office of Indian Affairs during the period studied are followed by a chronological description of Indian affairs and their administration in the territories of California, Oregon and Washington, Utah, New Mexico and Texas, and Kansas and Nebraska. Particular attention is given to the personalities and policies of successive Indian superintendents and agents. The writer concludes that the policy of treating the Indian tribes as dependent nations and negotiating treaties with them was an utter failure, that in the main the government managed Indian affairs during this period in an inefficient manner, and that the new reservation system was a mixture of good and evil, with the balance in its favor. Extensive use was made of manuscript sources, especially those in the files of the Office of Indian Affairs. A useful bibliography and index close the volume, which is a worth-while contribution to Indian history and administration.—LLOYD M. SHORT.

A new edition of Congressman James M. Beck's *Our Wonderland of Bureaucracy* (see this REVIEW, October, 1932, p. 958) contains a supplementary "Epilogue" of twenty pages in which the author replies to criticisms of his book voiced by sundry reviewers.

AMERICAN STATE AND LOCAL GOVERNMENT

Those who allege that American history has been furrowed over and over until nothing remains to be discovered will find support for their contention in E. Wilder Spaulding's *New York During the Critical Period, 1783–1789* (Columbia University Press, pp. xii, 334). Mr. Spaulding has been painstaking in the canvass of little used materials, including the newspapers of the period, but his conclusions are not strikingly new, nor is his interpretation of already known facts particularly refreshing. Challenging the thesis of Professor O. G. Libby in his *Geographical Distribution of the Vote of the Thirteen States on the Federal Constitution, 1787–*

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1788 that the landlords of New York were conservative and used their enormous influence over their semi-feudal tenants to fight the proposed federal constitution in 1788, Mr. Spaulding strives to reach an opposite conclusion (pp. 70 ff.). He shows that the Anti-federalists derived their chief support from the yeomanry and tenant farmers. The leadership of this large portion of the population he finds to be the "state government," i.e., the Clinton faction. But the central point of his argument is that the small farmers were Anti-federalist because they feared that the proposed national government would increase directly their burden of taxation (p. 154). The assertion that "the landlord had carefully written into most of the leases a provision making the tenant responsible for any future taxes" is inadequately supported by the materials at hand. There were other, and more important, reasons for the strength of Anti-federalism in New York which Mr. Spaulding suggests, but does not develop very fully (pp. 60 ff.). The account of the campaign for the election of delegates to the state convention in 1788 and of the controversies within the convention itself is interestingly written. On the whole, however, the book is not particularly valuable to the student of political science.—WILLIAM S. CARPENTER.

Benjamin Chew, 1722–1810, Head of the Pennsylvania Judiciary System under Colony and Commonwealth (University of Pennsylvania Press, pp. xix, 316), by Burton Alva Konkle, presents in clear outline the biography of a lawyer and jurist prominent in the public life of Delaware, Maryland, and Pennsylvania—chiefly the latter—during more than half a century in the Revolutionary and formative periods of our history. The book is scholarly and well written, although not always, one feels, wholly unbiased in its judgments. It is easier to explain the author's uniformly favorable estimates of his subject than to excuse a definite tendency to over-estimate the dominating influence of Justice Chew in the affairs of a commonwealth at the time blessed with the services of an unusual number of able and talented men. The text is well documented, profusely and beautifully illustrated, and concluded with a good index. For the student of American government, the study is valuable in a number of ways. It presents a picture of life and affairs in Philadelphia when that city was the metropolis of the country and the capital of both state and nation. It emphasizes again the powerful influence of English legal and governmental institutions upon those of this country, and illustrates in an early period that dominating influence of the legal profession which has been so characteristic of American politics. The student of state government cannot fail to find much of value in the historical material concerning the reorganization of the government of Pennsylvania after the Revolution, and the early operation and development of the institutions so established, particularly on the judicial side.—W. BROOKE GRAVES.

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Professor James E. Pate's *State Government of Virginia* (Richmond, The Appeals Press, pp. 270) was written largely for students of government in Virginia and includes an historical statement of the constitutional conventions from 1776 to 1901 as well as a description of the work of the successful revision commission of 1928. Individual chapters are devoted to the electorate and parties, the legislative branch of the government, the executive, and the administration of justice. The activities of the state government are then discussed, including finance, education, regulation of business, public welfare, labor, agriculture, highways, and conservation. The virtue of this volume is its completeness in presenting the facts in regard to the government of one state. Local government problems are set forth in connection with the material on education, highways, and administration of justice. It would have been of great value if the author had included a discussion of the relationships of local government to the state, so that it would be possible to see the general trends in this field, now so marked in Virginia. In the same way, a further evaluation of the governor's power to integrate and control the state administration would have thrown light on the virtues of the administrative reorganization program. There is no greater need in the study of government than for comprehensive and careful analyses of state government in operation, particularly in those cases where reorganization has taken place. It is to be regretted that the author did not take occasion to pass some tentative judgments upon these results. The inclusion of a bibliography is to be commended, but the absence of an index is regrettable.—F. G. CRAWFORD.

The conclusions of Thomas C. Cochran's *New York in the Confederation* (University of Pennsylvania Press, pp. ix, 220) indicate the book's contents. New York's part in the western land cessions has been underestimated; the Revolution did little to advance democracy within the state; the weakness of the Confederation was largely the weakness of the individual state governments; and New York's supporters of the Constitution were mainly federal security owners. Mr. Cochran's research is honest and laborious; but his exposition suffers from want of perspective and emphasis. The narrative of legislative routine is perhaps too detailed, and the analysis of social groups within the state leaves something to be desired. It is unfortunate that this book—the best on its subject—is so written that the significance of most of the discussion will be apparent only to specialists.—CURTIS NETTELS.

The Special Libraries Association, with headquarters at 345 Hudson St., New York City, has published a *Basic List of Current Municipal Documents* compiled by a civic-social group of the Association, and furnishing a guide to official publications issued periodically since 1927 by all cities

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in the United States and Canada of 200,000 population and over, together with fifteen other cities "whose experience is valuable because of their industrial development or geographical location." The latest editions of charters and ordinances are included.

Philadelphia's Government, 1932 (Philadelphia Bureau of Municipal Research, pp. 99) is a third revised edition of a publication first issued in 1924. The diagram, or chart, of municipal organization which was the central feature of the original publication now reflects significant changes and tendencies, and is supplemented by far fuller comment descriptive of organization, functions, and fiscal arrangements.

FOREIGN GOVERNMENT AND POLITICS

As indicated in the preface, Professor Joseph S. Roucek's *Contemporary Rumania* (Stanford University Press, pp. 422) is designed to throw some light on the life of a country whose fate it has been to be the object of much propaganda. Some of this has been friendly and some antagonistic, but all of it has only served to cloud the truth and to create a distaste for all things Rumanian among the reading public. Mr. Roucek's book should go a long way toward creating a healthier interest in the country. It brings out with great skill not only the many dramatic moments in the history of the Rumanian people, but also the active part they have played, as victims or as heroes, in the evolution of southeastern Europe. The historical part, though brief, is clear and informing. The bulk of the volume is devoted to recent and current affairs, and it is here, especially, that Mr. Roucek's ability to state the essential and to state it simply is happily allied also to an ability to state it without bias. Indeed, in his anxiety to "take account of both sides of the question," the author has all too rarely given his readers the guidance of his own judgment. The ground which he manages to cover is remarkable. There are chapters, solid and instructive, on Rumania's internal and external politics; on her constitution and administration; on agrarian reform, economic and trade policy, and the financial system. Two appendices—on the press and education—and an extensive and useful bibliography complete a survey which from the table of contents seemed excessively ambitious, but which in retrospect one must concede to be successful. It should be made clear that Professor Roucek does not claim to have attempted more than a general introduction, based on extensive and conscientious reading among the more specialized studies on his subject. But as a general introduction, his is now the best work available in English.—David Mitrany.

Though the method of Robert J. Kerner's *Bohemia in the Eighteenth Century* (The Macmillan Company, pp. xii, 412) is strictly historical and pragmatic, the book will be welcomed by all students of political science

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who are interested in the development of the states which arose on the ruin of the former Hapsburg Monarchy. As a matter of fact, the main problems and difficulties of these states are utterly incomprehensible without an understanding of the main features of the process which led to the dissolution of the Dual Monarchy. A considerable part of the forces of disintegration were produced by the historical state of Bohemia, economically and culturally the most important region (aside from those strictly Austrian) of the former Monarchy. In this Bohemian history, the eighteenth-century developments are of capital importance, because this was the time when the foundations of modern Czech nationalism were laid and the repercussions of the Enlightenment and the French Revolution stirred the whole Empire. Whereas the story of the other storm-center of the Empire, Hungary, has been sufficiently known, concerning Bohemia the situation has not been adequately clarified. This important work has now been done by Professor Kerner, who—on the basis of largely original archive researches—has collected a stupendous mass of important facts and now presents us with a thoroughgoing analysis of the political, economic, social, and religious structure of the territory which became the Czechoslovak Republic. The growing conflict between Germanizing and centralizing absolutism and the narrow-minded Czech feudalism, with developing national aspirations but at the same time oppressive, is strongly stressed by the author. In this way, neither the enlightened absolutism of Leopold II nor the provincial reaction of the Estates could solve the problem of rebuilding the old monarchy on a basis capable of life. The forceful demonstration of this truth is the main merit of Professor Kerner's book.—Oscar Jászi.

The social and economic results of the Bolshevik revolution have so overshadowed Russia's pre-revolutionary history that the general reader is apt to have only a hazy conception of the forces which precipitated the November, 1917, *coup d'état*, and of the history of the men who prepared it. The atmosphere of the years 1912–14, when the workers, shaking off the apathy which had followed the abortive 1905 revolution, were again preparing to oppose government repression, is clearly reproduced in A. Badayev's *The Bolsheviks in the Tsarist Duma* (International Publishers, pp. xv, 250). The author, a former metal worker, was elected by the St. Petersburg workers to the Fourth—and last—Duma in 1912, and was an active member of the Bolshevik "six" whose activities in the Duma were under the immediate guidance of Lenin, then living in exile. The task of the Bolshevik deputies, according to Lenin, was to "use the Duma for agitation and help to develop the revolutionary movement by exposing both the Tsarist government and the hypocrisy of the so-called liberal parties," and to act as leaders and organizers of the revolutionary strug-

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gle. In the course of his activities, Badayev investigated labor conditions in many of the principal factories in and around the capital which led to an increasing number of strikes in 1912–13, and interpellated the government regarding its labor policies, without tangible success. The picture of factory life which he paints is not a pretty one. Long hours, extremely low wages, almost complete lack of health and accident protection, were the rule rather than the exception. The government, meanwhile, supported the factory owners against the workers by hampering or suppressing the workers' political activities, in which Stalin played an important part. The author vividly conveys the rising tide of indignation on the part of the workers which culminated in the predominantly urban and proletarian revolution of November, 1917.—Vera Micheles Dean.

In substance, Dr. Waldemar Gurian's *Bolshevism—Theory and Practice* (The Macmillan Company, pp. 402) is the long-awaited analysis of Bolshevism by a scholar in political science, using the methods of the profession. The young author has exceptional equipment for the task as a native Russian, trained by such distinguished men as Professors Max Scheler and Karl Schmitt of German universities. Dr. Gurian's thesis is that Bolshevism—but one political and social theory amongst others today—must be studied as a purely Russian phenomenon in its historical context, and is of universal significance only as a negative agent of social reform. To that end, he divides the work into six parts: the historical and social background, the seizure of power, the economic and social policies, the workings of the party, the Bolshevik creed, and finally an all-round criticism of Bolshevism as a formula of salvation. The focus of his attack is on "Bolshevik religion" which makes socialist society the Absolute. His conclusion is that "Bolshevism must be regarded as simply a disease of the existing order, incapable of creating superior political and social forms . . . a force which is compelling those responsible for the present world order to reflect upon the foundations of their government and upon the effects of their social action." There is a table of contents, which might very well have been expanded, and a short index. The admirable appendices contain Bolshevik documents of a fundamental nature which are not very widely known, along with a glossary of Bolshevik terms, and the reference notes to the text. Errors are few and unimportant, such as making Stalin president of the Sovnarkom (p. 25). It is impossible, in a brief note, to do credit to this penetrating study. Its importance to the political scientist is that it is a thoroughgoing treatment of the Bolshevik state in theory and action. Account must be taken, however, of the author's deeply religious feelings, and of the fact that he is of the émigré school.—Bruce C. Hopper.

Writing as an Englishman who believes that parliamentary govern-

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ment in his own country is moving on lines parallel to those followed in Fascist Italy, Harold E. Goad, in his *The Making of the Corporate State* (Christophers, pp. viii, 167), paints a dark picture of pre-war Italian politics, narrates the achievements of the Mussolinian dictatorship, traces the development of the "charter of labor" and the corporations, describes the new political constitution, and discusses Fascist ethical ideals and their bearing upon present problems in Great Britain. To Mr. Goad, Fascism appears the most constructive of all political creeds; the Fascist régime, so incomparably efficient that it needs only to be seen to be accorded enthusiastic endorsement. Even the loss of liberty which ill-informed or short-sighted critics deplore turns out to be only a "higher type of freedom"—the freedom that comes from "looking steadily at life" and doing one's duty in coöperation with one's fellows for the good of the general body politic. Though disclaiming any purpose to defend the existing régime, on the ground that it no longer requires defense, the author has manifestly done that very thing, and with such spirit that one would never gather from his chapters that there is, or can be, any opposition from Italians save such as springs from obtuseness or sheer maliciousness. Such names as Sforza, Salvemini, and Luigi Sturzo hardly appear except in the brief bibliography.—F. A. C.

The Indian Empire, 1858–1918 (The Macmillan Company, pp. xxiv, 660) is the sub-title of the recently published sixth volume of *The Cambridge History of India*. Like the fifth volume in the series, the present book was edited by Professor H. H. Dodwell. The dates forming part of the title are somewhat misleading, since the first nine chapters of the book are devoted to the period from 1818 to the Great Mutiny. While political developments are not disregarded, the chief emphasis is on the operation of the British administrative services. These are considered in some detail, both regionally and functionally. There are excellent chapters on the Northwest frontier, the conquest of Burma, law reform, educational policy, local government, etc. In spite of the number of contributors—there are fourteen—the volume has been planned and edited with enough care to produce a remarkable unity. The general point of view, in so far as one exists, is official in character. The rise of the Nationalist movement is treated with rather excessive brevity, and the extremists are condemned in no uncertain terms by Sir H. Verney Lovett, who remarks: "In our day, by spreading abroad a spirit of lawlessness and by sharpening animosities between various sections of an immense society, extremism has gone far to make the successful working of any parliamentary system in India forever impossible."—G. L. Kirk.

The background of the Republican movement in Spain is the chief subject for consideration in Joseph Brandt's *Toward the New Spain* (Uni-

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versity of Chicago Press, pp. xiii, 435). Adopting the premise that "the Republican movement is the greatest mine of politics in Spain's history . . . its ore is the wealth of the New Spain," the author devotes the major portion of his book to an analysis of the political developments of the years 1868–75. The events of the past half-century, culminating in the revolution of 1931, are sketched in a brief afterword of debatable accuracy, labelled "Old Wine in New Bottles." It is clear that Mr. Brandt considers the problem of federalism the gravest issue confronting the Republic. Much will hinge, he believes, upon the extent to which "a religion of progress" can become a unifying factor to supplant the historic bond of religious faith. The volume is well documented, and is written in a clear and engaging style.—G. L. KIRK.

INTERNATIONAL LAW AND RELATIONS

In his foreword to *Heirs of the Hapsburgs* (Arrowsmith, pp. xvi, 290), G. P. Gooch states that the author, G. E. R. Gedye, "detests the extremes of Fascism and Communism, loves ordered liberty, denounces cruelty and corruption wherever he finds them, and scornfully unmasks the attempts to conceal ugly events behind the censor's screen. His earlier work, *The Revolver Republic*, a study of separatism in the Rhineland, gives a measure of his determination to discover and to proclaim the truth, unaffected by considerations of personal danger or abuse." This judgment of the noted British historian will be supported by all who have observed the work done by Mr. Gedye since 1925, from Vienna, describing the new developments in the social, political, and economic life of the succession states. If we had a larger staff of foreign correspondents of the moral independence of Mr. Gedye, our task of teaching contemporary politics would be far easier. For, not knowing of the personal elements of present-day political struggles, the hidden egotistic motives of the classes, and the intrigues of the ruling dynasties and oligarchies, our analysis of existing constitutions and party life must always be incomplete and far from reality. This work is done by Mr. Gedye in the present volume, which concerns not only the succession states in a proper sense, but also partly Poland, Turkey, and Albania. Every page of the volume shows that the author knows whereof he speaks, that he has an intimate knowledge of leading men, and of the most important mass movements, even when they are underground. For the student of international relations, it is very important to read what the author says on pages 273–5, where he describes the machinations by means of which honest journalists are silenced in most of the succession states. And though some of his conclusions the the present reviewer cannot share, there is no doubt that Mr. Gedye has given, as a whole, a fair picture of the social and political forces agitating those countries and menacing the world with new wars and revolutions.—OSCAR JÁSZI.

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A Report of the Round Tables and General Conferences at the Twelfth Session of the Institute of Politics at Williamstown (pp. 495) has been published by the Yale University Press. Cerebration and more usual types of consideration of social subjects continue to draw old and new acquaintances to Williamstown. The semi-stenographic report of these discussions is, as previously pointed out in the REVIEW, useful chiefly for members of the Institute who wish to refresh their memories. But there is also meat for those few specialists who are patient enough to wade through a swamp of argument in order to dig out a few illuminating suggestions. Professors Arnold Toynbee and Edwin F. Gay led an unusually interesting round table on "The Disintegration of the Modern World Order." Professor Bernadotte E. Schmitt tried to bring some order into the field covered by "The Peace Treaties and the Map of Europe." There was a discussion of Sino-Japanese problems, led by Mr. Henry Kittredge Norton. Dr. Stephen P. Duggan ran a round table on "Contrasts in Latin American Civilization" which brought out some interesting points on South American culture, though it was chiefly concerned with investments. Drs. W. W. Cumberland and J. H. Williams did "American Economic Foreign Policy," and Professor T. E. Gregory investigated "The Present Position of Credit and Monetary Problems." General conferences on disarmament, the Stimson Doctrine, the St. Lawrence waterway, and the Ottawa Conference complete the list of activities reported.—G. S. C. BENSON.

Prince A. Lobanov-Rostovsky's *Russia and Asia* (The Macmillan Company, pp. viii, 333) is a wide-sweeping survey of Russian operations, interests, and policies east of the Urals from the earliest expansion into Siberia to the penetration of Soviet influence into China since the World War. Much of the ground covered is familiar to students of modern history and of international relations, yet there is enough original and suggestive interpretation to repay almost any one for reading the book. Particular interest attaches to the final chapters in which are analyzed the Soviet policies of using Asia as a lever for overthrowing European capitalism, and of fostering the cultural autonomy of Asiatic minorities included in the U. S. S. R. It is the author's conclusion that Russia will in future turn "more and more eastward," Europe representing for her "something outworn, in which she has no interest." Mere brute force applied as in the days of European imperialism will not, however, safeguard her Asiatic position against Japan, and perhaps later China; only if she "has a new word to say acceptable to the Asiatic nations will her position be secure." Though an expatriate, Prince Lobanov-Rostovsky writes of the Bolshevik era with no display of passion.

The first two chapters of *Anglo-German Imperialism in South Africa, 1880–1900* (Warwick and York, pp. x, 181), by Raymond W. Bixler, con-

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tain a chronological and detailed account of the acquisition of German Southwest Africa, the abortive attempts to obtain colonies in Southeast Africa, and the British acquisition of Bechuanaland and Rhodesia. The third chapter deals with the extent of German economic interests in the Transvaal, and describes the controversy over its status. One regrets that the author has not given a fuller critical discussion of the validity of the British claims to suzerainty. Chapter IV describes Anglo-German rivalry over Delagoa Bay, and the agreements of 1898 and 1899. Chapter V deals with the policy of the German government during the Boer War, and the growing hostility of the British and German peoples. The account is conscientious, detailed, and well documented. Its very fullness, combined with a chronological method of treatment, at times makes the main lines of development a little difficult to follow. A map would also have been desirable.—LENNOX A. MILLS.

Effects of Chinese Nationalism upon Manchurian Railway Developments, 1925–1931, by Harry L. Kingman (University of California Publications in International Relations, Vol. 3, no. 1, pp. xii, 97) is a rapid, superficial, historical account of recent events in Manchuria. It contributes little to general knowledge, but has the merit of assembling ephemeral data and of sharpening appreciation of the extent and cumulative effect of Chinese efforts to effectuate—not, as the author says, to "establish"—sovereignty in Manchuria. The writer has held the balance fairly and has written with interest and relevance. His main difficulty lies in the unavailability of full and final evidence upon so recent a period. But he might have aided more than he does toward clarifying certain legal issues, and he might have gone into more detail regarding Chinese railway building and management and its concrete effects upon other interests. Certainly the relation of Chinese nationalism to the whole development should be more clearly indicated.—HAROLD S. QUIGLEY.

In pursuance of the enlarged publishing program of the Department of State, *Papers Relating to the Foreign Relations of the United States, 1917, Supplement 2, The World War* (Government Printing Office, 2 vols., pp. 1323), was issued late in 1932; also Volume III of *Papers*, etc., *1918, Russia*. Of the first publication, Volume I deals with the political, military, and naval conduct of the war and with the possibilities and terms of settlement, including papers bearing on relations with the Central Powers and also discussions with Russia concerning peace; while Volume II has to do with belligerent rights and practices and with neutral duties. The scantiness of the material presented on some topics, e.g., the early development of American policy regarding neutral trade, is explained on the ground of actual lack of systematic records. The volume pertaining to Russia is the third in a separate series devoted to papers relating to that

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country, and treats principally of financial affairs, commercial relations, and American assistance in the operation of Russian railways, including the Chinese Eastern Railway.

A new reference work that will be welcomed by all students of international affairs is *The League Year-Book* (The Macmillan Company, pp. xiv, 590), edited by Judith Jackson and Stephen King-Hall. This first annual edition is as of the date July 15, 1932, and though entirely unofficial, is endorsed by Secretary-General Eric Drummond as giving an "admirable and reasonably complete" view of the League's organization and work. Part I brings together full information concerning membership, organization, finances, and political and administrative organs. Part II presents chronological summaries of League proceedings in 1931–32, including, for example, fifty pages on the Sino-Japanese dispute and twenty-three on the Disarmament Conference; Part III (Appendices) contains procedural information, lists of members of committees, and a fifty-page bibliography. There are also charts and an exhaustive index. Various additional features are promised for the 1933 edition, including an international "Who's Who" and a section on League of Nations societies.

The fourth annual volume of *Documents on International Affairs* (pp. xi, 241), published by the Oxford University Press and edited by J. W. Wheeler-Bennett under the sponsorship of the Royal Institute of International Affairs, presents a selection—rich, even though rigorously limited—of significant documents pertaining to international relations in the *annus terribilis* 1931. Considering the year to have been dominated by the issue of disarmament, together with the allied questions of security, arbitration, and reparations, the editor presents papers dealing with those matters only, aside from a brief collection pertaining to the proposed Austro-German customs union. Omission of materials relating to the Sino-Japanese dispute is explained on the ground that the subject can be dealt with more satisfactorily in the volume for 1932. A complete chronology of treaties concluded in 1931 is a useful feature of the volume.

Histoire Diplomatique de la Chine depuis 1919 (Paris, Librairie Arthur Rousseau, pp. xx, 334), by P. Wou, briefly reviews China's diplomatic history from antiquity to the twentieth century, but in the main is devoted to an account of efforts to procure a revision of "unequal treaties" since the World War. Successive chapters deal with negotiations at the Paris Peace Conference, at the Washington Conference, at Geneva in 1925 and 1929, and on separate lines with individual Powers. The treatment is factual and objective, rather than argumentative, and students of contemporary Far Eastern politics will find the book of substantial value.

Community Development in Palestine (Southern Methodist University,

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pp. 32), by S. D. Myres, Jr., is an intelligent and realistic study of a phase of the mandates system in the Near East, reaching the not particularly novel conclusion that racial antipathies will for a long time prevent Palestine from qualifying for full independence.

POLITICAL THEORY AND MISCELLANEOUS

Social and Political Ideas of the Age of Reaction and Reconstruction (Harrap, pp. 220), edited by F. J. C. Hearnshaw, is the eighth volume bringing together lectures delivered in an annual series at King's College, London. The present collection, if not the best of the number, includes good articles by the Master of Balliol on Hegel and Mr. Keith Feiling on Coleridge. Mr. Feiling's treatment, however, has suffered rather heavily from the obligation to include, within the space of thirteen pages, a survey also of the work of Wordsworth and Southey. In his discussion of Hegel, Dr. Lindsay commits himself to the statement: "There are those who criticize the whole conception of political philosophy and wish to regard political theory as a science in the ordinary sense of the term. Hegel's answer is that the state is the world the spirit has made for itself." This is surely misleading. For Hegel, the philosophy of right, and for that matter the philosophy of history, precisely as the philosophy of nature, physics, mechanics, chemistry, is an expression of logic. It is the predetermined manifestation of the universal reason, but it is neither more nor less the creation of individual choice and volition than the laws of physics. No science is understood by Hegel as a contemporary natural scientist would understand it. But, allowing for this diversity, political science is neither more invalid than any other science nor political philosophy more significant than natural philosophy within the ambit of the Hegelian monism. Mr. R. S. Dower contributes an interesting paper on J. S. Mill, whom he sees as a writer riddled with contradictions, from which contradictions nevertheless emerges a vindication of liberty which is of permanent worth. He adds, quoting Croce: "The chief meaning of history is the victory of freedom." There must, however, be some doubt whether the view of liberty of Mill and that of Croce and the Hegelian school, with their "law is the reality of the free will," are precisely the same. Miss Theodora Bosanquet contributes a study of Comte which is as good as anything the writer has read on the subject. And it is refreshing to learn that any priest of the Comtist hierarchy found adding to his income by writing popular articles for the press ran risk of expulsion from his post. Altogether, a helpful, and not at all ponderous, set of lectures on which Professor Hearnshaw, as editor, is to be congratulated.—GEORGE E. G. CATLIN.

As a part of its program to raise the level of social research in the South, the Southern Regional Committee of the national Social Science Research

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Council initiated a little over a year ago a statistical inquiry into the causes and extent of the "differential" existing against the South in this respect, in comparison with the rest of the country. Professor Wilson Gee's *Research Barriers in the South* (The Century Company, pp. viii, 192) presents in concise form the findings of the investigation. The conclusions he reaches may be summarized under four main heads. First, on the basis of an analysis of the regional origins, training, and present location of social scientists in *Who's Who in America*, and of physical scientists in *American Men of Science*, there is a substantial "qualitative drag" of academic talent out of the South. Secondly, southern professors are, on the average, paid a third less than those in northern and western institutions (as shown by the replies to a questionnaire submitted to a representative sample of forty-seven southern and fifty-seven northern and western colleges and universities). Next, teaching loads range about thirty per cent higher in the former than in the latter parts of the country. And finally, although southern academic administrators, by and large, evince a sympathetic attitude toward staff research activity, southern institutions are deplorably lacking in provisions for sabbatical leave, reduction of teaching time for men engaged in social investigation, and budgetary support of their researches. The attempt, however, to demonstrate that the professor's cost of living is not appreciably lower in the South than elsewhere does not seem wholly convincing. Case studies of faculty budgetary expenditures in comparable academic communities in the two regions would probably reveal a greater difference than is suggested by the reports of the Bureau of Labor Statistics which were available to Dr. Gee. This minor reservation apart, there can be no doubt of the distinct value of the study, not only for the future development of university policy in the South, but for the guidance of educational administrative officials throughout the country. While "research barriers" everywhere are likely to become more rather than less formidable during the present period of drastic educational retrenchment, the facts so effectively assembled by Professor Gee should serve to buttress the appeal of many a harassed university executive before alumni, legislatures, and boards of trustees for the maintenance of instructional and scientific standards.—WALTER R. SHARP.

A monumental and truly admirable publication is the *Atlas of the Historical Geography of the United States*, prepared under the direction of Charles O. Paullin, edited by John K. Wright, and brought out jointly by the Carnegie Institution of Washington and the American Geographical Society. In addition to an Introduction, there are 145 large double-column pages of explanation and comment, a thirteen-page index, and 166 full page plates, many of the latter containing as many as five or six maps.

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The magnitude and worth of the work may be judged by the fact that it has been in active preparation since 1912 and that scores of the country's leading historians, political scientists, geographers, cartographers, and other experts have collaborated in planning and executing various portions of it. Main sections are devoted to maps and charts dealing with "the natural environment," population from colonial days to 1930, political boundaries, industries and transportation, foreign commerce, the distribution of wealth, and other matters. But the political scientist will find of special value two such sections containing, respectively, twenty plates (with upwards of a hundred maps) depicting the geographical aspects of political parties and opinion from 1788 to 1930, and nine plates relating to similar aspects of political, social, and educational reforms between 1775 and 1931 (including such matters as suffrage, prohibition, labor legislation, and civil service requirements). There are also cuts showing the plans of early cities. Mechanically, the maps, whether in black and white or in color, leave nothing to be desired, and, all in all, the atlas cannot fail to win acceptance as an aid, alike indispensable and fascinating, to every student of American affairs.—F. A. O.

Carleton Beals does not offer his *Porfirio Diaz* (J. B. Lippincott and Company, pp. 463)—the most recent of the volumes prepared with the assistance of the John Simon Guggenheim Memorial Foundation—as "an academic work." It is rather a character study of Diaz, supplemented by vivid descriptions of Mexican scenes and sketches of the chief satellites who surrounded the dictator during his long reign. Its style is journalistic, its temper censorious, often bitter. In fact, Mr. Beals hardly finds a redeeming trait in the "stone man" whose career he traces. The book therefore stands in strong contrast to the often subsidized and always adulatory "biographies" which appeared during the lifetime of Diaz. Like them, it is not definitive; but it is a welcome counter-irritant to them. In its first portion, the narrative is discursive. The last third, dealing with the period since 1900, is better planned and more valuable. The treatment is chronological, and does not permit subject studies of the accomplishments and grave abuses of the old régime. The pages are crowded with illuminating quotations by the persons whose acts are discussed, but unfortunately they are entirely undocumented. No bibliography is given, though an extensive one is to appear later. The index, an important feature of such a study, is inadequate.—Chester Lloyd Jones.

R. G. Hawtrey has published, under the title of *The Art of Central Banking* (Longmans, Green and Company, pp. x, 464), a number of valuable essays dealing with various aspects of international finance. In addition to the title essay, there are discussions of French monetary policy,

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speculation and collapse in Wall Street, money and index numbers, Keynes' treatise on money, international short term investment, etc. Although the author is less critical than other writers, such as Paul Einzig, of French policies, he has little praise for the rôle played by the great central banks during the depression. He is convinced that central bank coöperation to prevent fluctuations in the value of gold must involve a willingness and ability to absorb the annual surplus over the industrial demand, and that gold movements should be minimized by bank policies which will make credit and currency less rigidly dependent on gold reserves.—G. L. KIRK.

Of the making of books on the French Revolution there is no end. Closely following Professor Hazen's two-volume work noticed in the preceding number of the REVIEW is Professor Leo Gershoy's *The French Revolution and Napoleon* (F. S. Crofts and Company, pp. xiii, 576). Following conventional lines of chronological treatment, the author devotes a hundred pages to the *ancien régime* and the reform movement, some two hundred to the Revolution proper, and over three hundred to the era of Napoleon. The narrative flows smoothly, but, as is usual in such histories, social, economic, and institutional phenomena and developments receive less attention than they deserve.

Volume XXI of the revised and annotated *Collected Works of V. I. Lenin*—an edition authorized by the Marx-Engels-Lenin Institute of Moscow and brought out in America by the International Publishers, New York City—comprises, in two "books," bound separately, *Toward the Seizure of Power* (pp. 304, 349), dealing with the revolution of 1917 from the July days to the October uprising, and consisting chiefly of articles and letters written by the author for or to members and committees of the Bolshevik party while the revolution was preparing. Many letters and other papers known to have existed have not come to light, and accordingly the collection is incomplete. Even as it stands, however, it is a mine of material for the student of the period. The annotation is extensive and well done.

The Only Way Out (International Publishers, pp. 84), by Emile Burns, is announced as the first of a series of books on "the position of capitalism and the workers in Britain." It comprises a Marxian analysis of the various proposals made to revive British economic activity. The most original feature is a discussion of the possibility of success for a revolution in Britain despite the dependence of the country on imports. The concluding chapter indicates, in general terms, the main lines of reconstruction in Britain which a Communist policy would include.

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Two trips to Central America furnish the background for the interesting collection of impressions of the attractive and squalid phases of local life presented by Carleton Beals in *Banana Gold* (J. B. Lippincott and Company, pp. 367). The description of American activities in the republics will be welcome to those who enjoy reading at long range of the sins of concessionaires and the financial exactions of Wall Street. The picture is sufficiently impressionistic to give more amusement than exasperation to those whose opinions rest on first-hand experience.—CHESTER LLOYD JONES.

Persons interested in the population of early governmental areas in the United States will find all existing statistics and estimates brought together conveniently in *American Population Before the Federal Census of 1790* (Columbia University Press, pp. xx, 228), compiled by Evarts B. Greene and Virginia D. Harrington. The material is arranged, for the most part, by states and territories; and in addition to the tabulations and other data, there is a general bibliography.

In *Readings in Public Finance and Taxation* (The Macmillan Company, pp. xvi, 823), Professors Mark C. Mills and George W. Starr present, in carefully classified form, sixty-one pieces of reading on public expenditures, taxation, public revenues other than taxation, public credit, and financial administration. The selections, which are commonly of some length, have been chosen with a good deal of skill from a wide range of articles, books, and public documents.

The title, *Readings in Economic Planning* (The Business Bourse, pp. 353), by J. George Frederick, will be somewhat misleading to persons familiar with books of "readings" as selected and quoted materials. Mr. Frederick has here given a comprehensive and superficial account of the movement for economic planning, the range of objectives sought by various advocates of economic plans, Russian economic planning, and various proposals made in this country. The chief value of the book is its convenience as a conspectus.

World Agriculture; An International Survey (Oxford University Press, pp, vii, 314) is a comprehensive report prepared by a study group drawn from the membership of the Royal Institute of International Affairs. Students of political science are likely to be interested chiefly in the chapters devoted to tariff policy and tariff-making and to "pressure" activities of agricultural interests.

Three addresses delivered at a celebration of the fourth centenary of Francisco de Vitoria, held at the Catholic University of America, Wash-

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ington, D. C., on May 1, 1932, have been published by the University under the title *Francisco de Vitoria* (pp. 44). The authors are Drs. Charles H. McKenna, Herbert Wright, and James Brown Scott.

The Geographic Factor; Its Rôle in Life and Civilization (The Century Company, pp. xv, 422), by Ray H. Whitbeck and Olive J. Thomas, will be found a convenient treatise by social scientists interested in the physical setting of political, economic, and other social phenomena.

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REPORTS ON STATE, LOCAL, AND METROPOLITAN GOVERNMENT

Studies on State and Local Government. Financial difficulties are probably responsible in large degree for the renewed activity in the study of the operation of state and local government in the United States, and in bringing about important changes. During the past two or three years, surveys and studies of varying degrees of importance have been made and published in at least half of the states; and substantial changes have been made in a number of states, including Maine, Virginia, North Carolina, and Georgia. In the year just past, a dozen surveys on an extended scale have been made, besides at least an equal number of briefer studies; and recommendations for extensive alterations are now before the state legislatures in all parts of the country.

The most intensive surveys have been made by such organizations as the Institute for Government Research of the Brookings Institution, the National Institute of Public Administration, and Griffenhagen and Associates, at the request of public officials or legislative committees. In some cases, they have been made by, or in coöperation with, university specialists, as in Michigan and New Jersey. Less extensive studies have been made by various agencies—by legislative committees, public officials, voluntary organizations, and private individuals.

In the present article, some account will be given of the more important recent surveys, with brief reference to some shorter studies and reports. The reports considered will be those dealing with state and rural local government. Some important studies on metropolitan government are reviewed in accompanying articles by Professors Studenski and McGoldrick.[1]

New Jersey. This state has had two surveys of state government and one of local government and finances in recent years. A survey of the organization and administration (pp. 381) and an audit of the financial affairs (pp. 182) of the state government were made by the National Institute of Public Administration for the governor and the state audit and finance commission in December, 1929. There were about one hundred separate staff offices, boards, and commissions, controlled to a large extent by absentee or part-time officials. A general reorganization under fourteen departments was recommended, mostly headed by single commissioners appointed by the governor, but with a board of education and an advisory health council, and an elective auditor. A smaller number of joint legislative committees and a legislative bill-drafting agency were proposed; and a small single-house legislature was suggested. Owing to

[1] See pp. 329-340 below.

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political conditions, these proposals were not adopted; but they laid the basis for further reports and legislation.

In 1930, the state audit and finance commission presented two reports, and some fifty bills were passed. Among other things, these bills revised the budget act, reorganized and extended the jurisdiction of the purchasing department, reorganized the state-house commission, and created a new state tax department, to which was transferred the administration of various special taxes.

The survey of local finances and government was made for a commission to investigate county and municipal taxation and expenditures, under the general direction of H. L. Lutz, professor of public finance in Princeton University, with a staff from Griffenhagen and Associates. Eight reports were published from January, 1931, to March, 1932 (aggregating 939 pages), dealing with the organization, functions, and expenditure of local governments in New Jersey, municipal and county debt, municipal and county financial administration, local fire protection, highway services and costs, local police protection and c sts, and educational services and costs.

In the general summary of findings and recommendations, two general plans for the reconstruction of local government have been proposed, for different sections of the state. One, for the urbanized counties, will consolidate county and municipal functions in the municipalities; the other, for the more rural counties, will consolidate county and township functions in the counties. Under both plans, county roads and some other functions will be transferred to the state; and proposals are made for dealing with problems for regions larger than a single county, and for improved methods of financial administration. A less radical program for immediate consideration includes the creation of a state planning commission, a state division of municipal standards and costs, a revision of the civil service law, a reclassification of municipalities, and transfers of certain county and local services. More specific recommendations deal with budget methods and expenditure control, local debts, improvement planning, state participation in and larger local areas for fire and police protection, highways, and education. A number of bills were introduced to carry out recommendations, but none has been enacted.

The *Report on a Survey of Administration and Expenditure* of the state government of New Jersey is a substantial volume of 403 pages, submitted in December, 1932. The survey was made for Governor A. Harry Moore, by the School of Public and International Affairs of Princeton University, under the direction of Professor Harold W. Dodds, with the assistance of twenty-two members of the university staff and a number of other experts on special problems. An introductory chapter summarizes the scope of the survey and the most important recommendations. These

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include a new department of fiscal control (with divisions of budgeting, purchasing, and accounting), salary readjustments, a public works planning commission, and the transfer of county or township roads to the state. Among other recommendations may be noted those for a consolidation of the fish and game commission with the department of conservation and development, the centralization of the professional licensing boards, and the need for a general reorganization of agencies dealing with agriculture, education, and the department of state. Net savings by reducing expenditures as proposed are estimated at $7,657,000, compared with expenditures of $105,000,000 for 1931–32. Some of the recommendations made in this report are being carried out by the departments concerned; and those requiring legislation are under consideration.

New York. In 1930, a temporary state commission was established to recommend a revision of the tax laws; and with the *Report* of this commission, submitted in February, 1932 (Legislative Document No. 77) there is presented a series of thirteen memoranda on special topics, and a general report on state and local taxation by Professor Robert M. Haig, of Columbia University, director of the commission's research staff. The commission's report proposed a series of changes in the tax laws, estimated to provide about $250,000,000 additional revenue. The largest additions proposed are from a reduction of exemptions and adjustment of rates for the personal income tax and an increase in the motor fuel tax. Proposals are made also for the improvement of tax administration and for control of local finances; and the need for a more complete study of governmental expenses and reorganization is urged. A third report of this commission (Legislative Document No. 56, pp. 216) deals with depression taxes and the reform of local government.

Professor Haig's report also discusses the defects of governmental organization as a cause of the high cost of government, and problems of tax administration. Several memoranda deal with problems of state and local tax administration.

Further studies of local government in New York State have been made by the National Institute of Public Administration. In the spring of 1932, a memorandum on reorganization of local government was submitted to Governor Roosevelt; and in July a memorandum on factors bearing on the zoning of New York State for local government was submitted to the tax revision commission.

The New York State tax commission has issued since 1929 a series of reports on special studies. One of these, on *The Operation of Debt and Tax-Rate Limits in the State of New York* (pp. 247), by F. L. Spengler, recommends the elimination of the present constitutional provisions on debt and tax-rate limits, and the substitution of new constitutional and statutory provisions. Others are entitled *Special Assessment Procedure*

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(pp. 272), *Full Value-Real Estate Assessment* (pp. 189), and *Luxury Taxation* (pp. 235).

Maine. A report on *State Administrative Consolidation in Maine* (pp. 214), presented in October, 1930, the general findings and conclusions of a survey of the state government made by the National Institute of Public Administration at the request of Governor William T. Gardner. This proposed a general reorganization of the existing 65 state offices and boards into nine major departments (executive, finance, health and welfare, agriculture, highways, corporations, conservation, labor, and education). In addition, the attorney-general's office, the public utilities commission, the Port of Portland authority, the University of Maine, and the Maine development commission would continue. A reorganization of legislative committees and a bill-drafting service were also recommended.

A non-partisan commission appointed by the governor, after conferences and public hearings, drafted a bill for a consolidation act; and a revised measure was passed and signed by the governor on April 2, 1931. This was not a complete reorganization, but provided for 12 major departments, with a number of other offices and boards. Four major departments absorbed 28 former agencies: finance, education, health and welfare, and sea and shore fisheries. Most of the departments were provided with single heads appointed by the governor and council; but several boards were retained, and several officials, including the auditor, are chosen by the legislature. On a referendum, this act was approved by a vote of 41,077 to 30,368; and the results indicate a larger reduction of expenditure than had been estimated.[2]

A recent study of *Maine Towns*, by O. C. Hormell, of Bowdoin College (pp. 101, 1932), describes their genesis and development, expenditures, taxation, and business methods.

New Hampshire. The Report on a Survey of the Organization and Administration of the State, County, and Town Governments of New Hampshire, submitted in December, 1932, is a substantial volume of 633 pages. This was prepared by the Institute for Government Research of the Brookings Institution, at the request of Governor John G. Winant, by a staff of eight persons. Part I gives a general summary in 16 pages; Part II presents the conclusions and recommendations in 42 pages; while Part III includes the detailed survey in 26 chapters, with more than 300 paragraphs of recommendations.

Basic conditions in this state are found to be, in general, favorable to good government; and in some aspects of organization the state is commendably advanced. But there are too many separate agencies (52), and responsibility is not clearly defined and differentiated. The number of

[2] *National Municipal Review*, 20: 131, 511 (March, Sept., 1931); 21: 659 (Nov., 1932); 22: 67 (February, 1933).

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separate agencies should be reduced; and some boards and commissions, including ex-officio boards, should be eliminated.

A general reorganization of state administration is proposed, with twelve main departments: executive, highways, education, welfare, health, economic conservation and development, law enforcement, business regulation, public service regulation, revenue, financial administration, and miscellaneous. In local administration, there is recommended the transfer of welfare to the county, larger units for health, highways, and schools, and the retention of towns, but with some consolidation of offices. The town-manager law is approved; and improved financial methods and personnel regulation are recommended.

The Southern states are taking an active interest in the problems of finance and reorganization. Surveys have been made in half a dozen states; and far-reaching changes have been made in several.

Arkansas. In August, 1930, a report of *Findings and Recommendations on a Survey of the Administrative Structure of the State Government of Arkansas* (pp. 174) was prepared for Governor Harvey Parnell and presented by the National Institute of Public Administration. This did not include any detailed study of administrative procedure or financial policy. Nearly 100 administrative agencies were in existence; and a general reorganization was recommended, based on two proposed constitutional amendments, providing for 11 departments: executive, finance, revenues, agriculture, conservation, labor, corporations, public welfare, highways, education, and law. Single heads of departments would be appointed by the governor, except the elective attorney-general, and boards for education and highways.

The *University of Arkansas Bulletin* for December 15, 1932, presents a coöperative study on *Problems of Arkansas Government* (pp. 59), prepared under the general direction of Professor Kenneth O. Warner, who is also the author of four of the eight chapters. This study deals with state and county government, finance and taxation, banking, and schools. Several proposals for state reorganization are described; but a limited plan voted on at the election in November, 1932, was rejected. The final chapter presents a program for curtailing expenditures and governmental reorganization, research in improved administrative methods, the education of public officials, and the organization of a state municipal league.

Georgia. A survey of Georgia government was made by Griffenhagen and Associates in 1922–23 for Governor Hardwick. In 1929, Governor Hardwick appointed a local commission, which reported a plan for a general reorganization. This was followed by a further study made for the state tax commission. At the legislative session of 1931, under the leadership of Governor Russell, an extensive reorganization was enacted,

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establishing 18 administrative departments. This, however, was not as comprehensive as in some other states; and there are still nearly a score of elective state officials.[3]

North Carolina. This state has probably had the most thorough examination, and has made the most extensive changes in both state and local government, of any state during recent years. Following special studies by state agencies on salaries and wages, taxation, roads, schools, and prisons, from 1925 to 1930, a comprehensive survey of state administration and county government was made by the Institute for Government Research of the Brookings Institution in 1930 and published in two volumes. This was followed by far-reaching legislative measures in 1931, which are described in a report on *State Centralization in North Carolina* (pp. 261), edited by Paul V. Betters and published by the Brookings Institution in 1932.

An introductory chapter summarizes the general results, followed by chapters in more detail on the school system, highways, state supervision of local finance, taxation, and state administration reorganization, with an appendix of the more important laws. Briefly, this includes state control of local roads, state assumption of financial responsibility for the minimum six-months school term, state control over local debts, a reduction of property taxes, and an increase of taxes on gasoline, incomes, public utilities, corporations, and business enterprises. No general reorganization of state administration has been made; but important changes include a consolidation of the state institutions for higher education, new departments of local government, labor and banking, new divisions of personnel and of purchase and contract in the governor's office, and a constitutional commission to propose amendments to the state constitution.

The general results reported are a substantial reduction in the total cost of government and increased governmental efficiency. No attempt is made either to justify or to condemn the high degree of centralization, which is ascribed to the pressing need for tax relief.[4]

Virginia. A series of studies and reports on state and local government has resulted in important changes. A commission on economy and efficiency, established in 1916, led to the adoption of a state budget system two years later. A commission on simplification and economy, set up in 1922, reported in 1924 recommending constitutional amendments and consolidation of state departments. A survey by the Institute of Public Administration produced reports on state and county government, which, under the leadership of Governor Byrd, led to the passage of an administrative reorganization act in 1927. Twelve main administrative depart-

[3] *National Municipal Review*, 20: 117, 681 (Feb., Nov., 1931).

[4] *American Political Science Review*, 25: 996 (1931); *National Municipal Review*, 20; 243, 328, 386, 527, 682 (1931); 21: 135, 493 (1932).

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ments were provided, and an improved system of financial administration. with segregation of state and local revenues. Constitutional amendments for a short ballot were adopted in 1928.

In December, 1931, a commission on county government presented a report (pp. 112) which emphasized the economic weakness of small counties and the defects of the local government. Optional plans for a county manager and a county executive form of government were recommended, and also the coöperation and consolidation of counties.

At the legislative session in 1932, an act for the transfer of county roads to state control was passed, with a provision allowing individual counties to retain local control. Fifteen counties voted on exemption, but only four voted to retain local control. Three of these are suburban areas near Washington, Richmond, and Newport News.[5]

Mississippi. The report on a *Survey of State and County Government in Mississippi*, made in February, 1932, by the Institute for Government Research of the Brookings Institution, for a state research commission of 25 members established in 1930, is a bulky volume of 971 pages. It includes four parts, on the revenue system, financial administration, state government, and county government, with 53 chapters and a "summary of recommendations" at the end, listing about 600 items in 48 pages.

Among the more important proposals may be noted: the elimination and amendment of constitutional provisions on taxation and local government, disapproval of the separation of state and local sources of revenue, a larger yield from taxes other than those on property, and more effective control of state and local expenditures.

A general reorganization of state administration is advocated, with 12 main departments: executive, justice, education, public welfare, health, conservation, banking and insurance, public utilities, taxation, treasury, highways, agriculture (under the Agricultural and Mechanical College), and local government. Changes proposed in local government include the abolition of special road districts, placing school administration on a county basis, the consolidation of certain county offices, county health departments and boards of review, and a further study of county consolidation.

Some consideration was given to this report at the legislative session in 1932; and a joint legislative commission was appointed for further examination. The chairman of this commission has suggested a program for the consolidation of agricultural, educational, and welfare agencies in three departments, the reduction of the legislature from 190 to 100 members, the abolition of ad valorem taxes (except for the payment of debts), a single county supervisor in place of the county board (tax levies to be

[5] *National Municipal Review*, 17: 673 (1928); 21: 133, 405, 505, 550, 620, (1932); *American Political Science Review* 25: 1004 (1931).

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approved by the state tax commission), and the abolition and consolidation of certain local offices.[6]

Alabama. Under an act of January, 1931, a survey of state and county governments of Alabama was made by the Institute for Government Research of the Brookings Institution. The detailed report, submitted in the summer of 1932, is in five volumes—two on the organization and administration of the state government, and one each on financial administration, taxation, and county government. These contain 57 chapters, aggregating 1,930 pages. The opening chapter of the first volume summarizes the main features of state administration and recommendations for reorganization.

The proposed reorganization provides for 17 departments, with 10 independent agencies. An executive department, under the direction of the governor, will include divisions of records, general administration (finances and personnel), and the industrial development board. There will also be departments of taxation and the treasury, and the state auditor—altogether four distinct agencies for financial matters. A board of education and a board of higher education are proposed; separate departments for agriculture, forestry, game and fisheries; and a new department of local government. Other recommendations on finances include a progressive income tax and general business taxes, and a budget system, with executive allotments and improved accounting methods.

County officials are placed in two groups: sheriffs, solicitors, assessors, county boards of education, county welfare services, and county agricultural agents to be under the control of state departments; county clerks, accountants, treasurers (optional), probate judges, engineers, and other elective officials to be under the supervision of the boards of county commissioners. But it is proposed that eventually probate judges and county engineers shall also be placed under state control.

Tennessee. A report on *Taxation and Public Finance in Tennessee* (pp. 128), was made by a state tax committee in November, 1930. This recommended a state income tax and other changes in taxation, an increase in the powers of the state tax commission, county budget commissions, and improved methods of local finance administration.

In December, 1932, the Tennessee Taxpayers Association submitted to members of the legislature a mimeographed report as a *Financial Survey* of the state government. This includes a series of statistical financial statements, with general comments in narrative form.

Illinois. A state commission on taxation and expenditures, established by the general assembly, and consisting of four members each from the senate and house of representatives, and three members appointed by the governor, have had an extended survey of local government in Il-

[6] *Jackson Daily News*, February 10, 1933.

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linois, with recommendations for reorganization, prepared by Griffenhagen and Associates. This has been issued in two mimeographed volumes, one dealing with Cook county,[7] and the other with the state outside of Cook county.

Part I, on the state outside of Cook county, contains 12 chapters, aggregating 350 pages. The first chapter describes the general situation and the problems, and is followed by chapters on education, the administration of justice, public welfare, highways, elections, assessment and collection of taxes, financial administration, and general government of counties and minor functions. At the beginning of each of these chapters is a summary of findings and recommendations. Chapter 11 gives a general summary of proposals for reallocating the functions and revising the structure of county and township government; and the final chapter discusses the consolidation of local governments, by the merging of counties and the union of municipalities in urban communities.

The survey is to be commended as presenting a good account of present conditions, within the limits of time and facilities available, and as showing the need for more information on the operation of existing institutions. The recommendations in some matters call for constitutional changes, and show the need for a general revision of the state constitution. Some of these, and other, proposals are of a fundamental character; while others suggest alternative and alleviating changes.

A sweeping reorganization of the judicial system, with appointive judges, a judicial council, appointed state's attorneys, and the abolition of sheriffs and coroners will require important alterations in the state constitution. Minor alterations, which may be made by statute, include a revision of supreme court and circuit court districts, the grouping of small counties for county courts, a single court clerk in each county, and a reduction in the number of justices of the peace and constables.

A transfer to the state of all rural highways outside of Cook county is proposed, with an increase of the state gasoline tax to reduce or replace property taxes for road purposes. The transfer of assessment and collection of taxes, elections, and health and public welfare to the counties is recommended. A general revision of local school districts, with a reduction from 10,000 to about 500 is advocated. A reorganization of county government, with boards of five commissioners in place of township supervisors, and some consolidation of offices is proposed; also a state department of local government and improved methods of local finance administration.

The state centralization of rural highway administrations seems too sweeping for immediate adoption. Most of the other recommendations may be approved, although many counties are too small for efficient ad-

[7] On the volume dealing with Cook county, see pp. 333-336 below.

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ministration; and the grouping of small counties into larger districts (as is proposed for county courts) might be applied to other functions, and bring about the practical consolidation of such counties.

Bulletins on the expenditure of state funds (No. 43) and costs of township and county government (No. 45) have been issued by the University of Illinois Bureau of Business Research. The state tax commission has published statistical studies on county and township taxes.

Minnesota. A study entitled *Taxation in Minnesota* (pp. 627), made for the Social Science Council of the University of Minnesota, under the direction of Roy G. Blakey, professor of economics, is an intensive survey of the tax situation in that state, with suggestions for consideration, but offers no simple solution. After an introductory summary of major problems, and a chapter on the fundamentals of a good tax system, nearly half of the work deals with problems of property taxes, followed by chapters on taxation of mines, banks, railroads, and public utilities, highway and public school finance, and the state income tax.

Some consideration is given to expenditures and debts. Reduction of expenditures depends on the relative importance of public to private services, and "indiscriminate horizontal slashes without investigation are certainly not truly economical." How far borrowing may be justified depends on the relative needs of today and tomorrow.

In taxation, "the greatest possibilities of improvement lie in the field of administration, particularly in the field of assessments." The state tax department should have supervision of the administration of all taxes. Local assessment needs larger districts and more technical training. Larger school districts and the assumption of the township road system by the counties are suggested. Specific proposals are made with reference to the taxation of ores and banks, and an increase of the tax on gasoline, the latter to replace the state and the larger part of the local property tax for roads. Income taxes are most successful in those states with a good centralized administration.

Two articles on "The Reorganization of Local Government in Minnesota," by Professor William Anderson, have been published in *Minnesota Municipalities* for February and March, 1933.

Ohio. A joint committee on economy in the public service reported in 1929, with recommendations for constitutional amendments and legislative and administrative changes, based on a series of survey reports by Griffenhagen and Associates.

In April, 1932, the Ohio Institute issued a pamphlet of 45 pages entitled *County Organization and Government in Ohio*, with a summary of findings and proposals for improved financial methods, and for a general reorganization based on the amendment of the state constitution.

Indiana. A descriptive account, *Indiana County Government*, by Harold

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C. Feightner, has been published by the Indiana Library and Historical Department (Indiana History Bulletin, Vol. 9, no. 6, March, 1932, pp. 150). This deals with the development and functions of the various county agencies, but does not attempt any critical analysis or proposals for change.

A study entitled *Township Government in Indiana*, by Clyde F. Snider, has been published by Indiana University (Indiana Studies in Business, 1932, pp. 73). This includes an examination of financial operations based on the townships in Monroe county. Proposed changes are considered. The abolition of townships is thought to be improbable; but consolidation of townships and the abolition of township officers appear more feasible.

At the legislative session of 1933, a radical reorganization of state administration was made by a state executive administrative act (approved February 3). This provides for eight executive and administrative departments, under the control of the governor. This goes farther than any other state, by including the constitutional elective officers, whose departments are placed under boards consisting of the governor, the elective officer, and the lieutenant-governor or one of the other officers.

Iowa. A joint commission on reduction of governmental expenditure has presented two reports (November and December, 1932, pp. 147, 39), making a total of 84 recommendations, with 72 bills to carry out the changes proposed. One is for county tax budget commissions of five real estate owners, to pass on local budgets and tax levies. Most of the others are of a minor character. General statements are made in favor of concentrating administrative power in the governor, optional county manager or commission systems, and the consolidation of counties; but no bills are submitted for these proposals.

Several bills have been passed, but action on the larger number has been deferred, and proposals for reorganization will be considered in connection with a more thorough survey which has been authorized, to be made by the Institute for Government Research of the Brookings Institution.

Kansas. A series of 13 *Tax Study Lessons* (pp. 104) has been issued by the Kansas Chamber of Commerce, in coöperation with the state university, the state college, and several farmers' associations, for the use of local tax-study clubs. In addition to the analysis of various kinds of taxes and proposed changes, attention is given to methods of controlling public expenditure; and proposals are noted for state administrative reorganization, the simplification of county government, the consolidation of counties and school districts, and for better business methods. The Kansas Chamber of Commerce has recommended a constitutional convention for a general revision of the state constitution, and specific changes in county government, tax burdens, and tax administration.

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Michigan. The state commission of inquiry into county, township, and school district government, created in 1931, presented in December, 1932, a brief *Preliminary Report* (pp. 31). This approves some, but not all, of the proposals made in the detailed survey described in the last number of this REVIEW. The commission recommends a constitutional amendment authorizing counties to reorganize county administration, and additional optional legislation for the transfer of local functions from townships to counties; advises sparsely settled townships to consolidate; and proposes a revision of the school system, with a single school trustee in each district, township boards composed of the district trustees, and county boards composed of the chairmen of the township boards. It does not favor the abolition of townships or any general change in the county boards of town supervisors. A further study of possible consolidations of counties is recommended.

Missouri. A state survey commission reported in November, 1929, recommending changes in the tax laws, with special reference to the support of schools and state institutions; and some legislation was enacted in 1931.[8] During the past year, a committee of members of the general assembly on taxation and governmental reform, and also the county judges' association, have adopted programs of proposed changes in state and county government. These have been considered by the research and legislative committees of the Missouri organization for reduction of taxes and public expenditures, and an analysis of the proposals with recommendations by the last-named organization was published on December 12, 1932 (pp. 10). This deals with proposals for the consolidation or abolition of certain state boards, bureaus, and offices, the consolidation of county offices, and improved methods of financial administration.

Oklahoma. In 1930, a plan for the reorganization of the state administration into 12 major departments (10 under boards), and a reduction of elective officers, was presented by the state budget officer. During the past year, there has been some discussion of county consolidation.[9]

Texas. Following proposals by the state auditor and efficiency expert (a position established a few years ago), a survey of state and local government in Texas has been made by Griffenhagen and Associates for a joint legislative committee on organization and economy. This has been published in 13 pamphlets, aggregating about 2,000 pages. The legislative committee has approved the plan for a general reorganization of the 131 uncoördinated units into 19 departments.[10]

Report on Federal and State Taxation. In December, 1932, a subcom-

[8] *National Municipal Review*, 21: 20, 207 (1932); reports by Griffenhagen and Associates on the taxation system, finances, and financial administration.

[9] *National Municipal Review*, 19: 308 (1930); 21: 582 (1932).

[10] *New York Times*, February 19, 1933.

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mittee of the Committee on Ways and Means of the National House of Representatives issued a preliminary report on duplications in federal and state taxation (pp. 328). This calls attention to the extent of such duplication in taxes on incomes, estates, occupations, and sales of particular commodities, and stresses the need for reduction of governmental expenditures.

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Studies on Government in the Metropolitan Region of Chicago.[1] Integration of government in metropolitan regions is one of those problems of statecraft that are not easily solved. The average citizen does not see the irrational character of the existing organization of the government in the region inhabited by him, under which the needs of the metropolitan community are attended to very ineffectually by a multiplicity of jurisdictions of various nature and size, and with no central authority capable of taking care of them in an effective and consistent manner. He is too much enwrapped in his personal affairs or in the affairs of his local community to be aware of the fact that he is a member of a larger community. The office-holders in the local communities are naturally satisfied with the existing arrangements, and do not wish to see them disturbed. Students of government and civic leaders possessed of a broader vision see the need for some form of integration of government in their metropolitan region and make efforts to bring it about. But these efforts commonly fail because of opposition from the vested interests and indifference of the general body of inhabitants. Thus, during the past ten years alone, attempts of this nature have been made in San Francisco, Portland (Ore.), Pittsburgh, St. Louis, Cleveland, and northern New Jersey—in all cases without avail. The illogical and ineffectual arrangements continue as before, and the problem remains unsolved.

One of the regions in which governmental organization is in a particularly chaotic state is that of Chicago. It is, therefore, with particular interest that students of the problem of metropolitan government will turn to an examination of the recently published results of two notable studies of the situation in that region. Moreover, their curiosity will be intensified by knowledge of the fact that these studies have been prepared by two very different groups of investigators, one of which is associated with

[1] *The Government of the Metropolitan Region of Chicago.* By Charles E. Merriam, Spencer D. Parratt, and Albert Lepawsky. Social Science Studies Directed by the Social Science Research Committee of the University of Chicago, Number XXVI. (Chicago: University of Chicago Press. 1933. Pp. 193.)

Proposals for the Reorganization of Local Government in Illinois, Part II: The Chicago-Cook County Metropolitan Area. (Prepared for the Illinois Commission on Taxation and Expenditures. 1932. Mimeographed. Pp. 400.)

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the academic world, the other with that of practical professional research and consulting work in the field of public administration. The two studies have been conducted, respectively, by Professor Charles E. Merriam and two of his associates at the University of Chicago, Dr. S. D. Parratt (now of Syracuse University) and Dr. Albert Lepawsky, and by Griffenhagen and Associates. They throw a new light on the situation in the Chicago region and advance novel suggestions for the solution of the problem.

The Merriam study is in part a recapitulation of a series of investigations of the various phases of the same subject conducted by different members of the faculty of the University of Chicago during the past three years or more. Some of these investigations were, or are, concerned with the organization of various services in the Chicago region, and either have been published already or will be published before long. The whole series will form a very useful and impressive study of that region. The present volume is a compact little book, packed with facts and written in a very entertaining style. It is dedicated, quite fittingly, "to the young men and women of the greater Chicago," who will find it very interesting reading. It might be recommended to the high schools in the region for adoption as supplementary reading in the course in civics. It could make this generally dull course interesting. The book is composed of three parts: Chicago in Confusion; The Regional System at Work; and Ways Out of the Jungle—each divided into a number of chapters some of which bear such enticing titles as: The Twenty-Seven Governments of the Inner City of Chicago; The Two Hundred Sister Cities; How Three Hundred and Fifty Police Systems Coöperate or Collide; How Sixteen Hundred Independent Governments Make a Budget; and so on.

The needs of the Chicago region are attended to by 1,642 governments, among which are 15 counties, 204 cities and villages, 165 townships, 978 school districts, and 280 special districts of various kinds. This lack of unity in the organization of the metropolitan region results in (1) high costs of operation, (2) difficulty in forming a united program for public services, and (3) difficulty in obtaining adequate control over the agencies of government.

"The 350 police forces of the region," say the authors, "operate without adequate coördination and control, in contrast to the more unified operation of organized criminality. The 343 health agencies vary widely in personnel, equipment, and standards; are unable to solve the health or sewerage problems of the region; and fail to unite in a common health program. The 74 park and forest systems are not articulated in such a manner as to promote either economy or the organization of a recreational system useful for the citizens of the Chicago area. The 167 public water systems of the region are constructed and operated at costs un-

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necessary under a unified system of water supply, and with a type of service capable of substantial improvement under a regional organization." Other public services are quite as poorly organized.

What is the way out of this confusion? Two programs are offered—one capable of immediate adoption, the other capable of execution only in a more distant future. The first provides for (a) consolidation of the several governments now functioning inside Chicago—the park boards and the school system—with the government of the city, and also for a merger with it of the sanitary district, through a system of interlocking directorates, thus greatly strengthening and simplifying the city government; (b) grant of home rule to Chicago and other municipalities and restoration to the city and Cook county of the share of representation in the state legislature to which they are rightfully entitled on the basis of their population; (c) establishment of a joint city-county board of budgetary control, with power to fix maximum budgets for the various governing bodies functioning in Cook county and to seek improvement in their financial methods and results; (d) establishment of a port authority by an interstate agreement, and exploration of the possibilities of interstate compacts on health, police, and other functions; and (e) arrangement of periodic conferences among suburban towns for the purpose of developing friendly relations among them.

The long-time program, on the other hand, contemplates (a) complete consolidation of the governments of Chicago, Cook county, and the sanitary district, by a constitutional amendment; (b) creation of a central authority for the entire region to which certain functions of government might be transferred voluntarily by the cities; (c) organization of a unified judicial system for the entire region; (d) development of a series of interstate compacts; and (e) serious consideration of independent statehood for Chicago and the Chicago region.

The last item in this long-time program is the most interesting of all. Professor Merriam does not believe it to be at all chimerical. "Down-state sentiment," he says, "would not be wholly adverse to the release of Chicago," for the down-state area "cannot look forward to a period of continued minority domination over the city through the present unconstitutional limitation of representation." In the end, Chicago will rule the state, if not by the direct methods of representation, then by the indirect ones of wealth, influence of the press, patronage, and so on; and down-state people might prefer separation to such domination. Professor Merriam would like to see a test vote taken in the state on the simple proposition: "Shall the city of Chicago become the state of Chicago?" The discussion of such a proposition would have a great educational value, and it might lead to important practical results by bringing the whole situation sharply before the voter.

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The ideal basis for a city-state would be the metropolitan region extending into Indiana and Wisconsin, besides Illinois. The Indiana section might welcome such a union. The simpler plan would be to take only Cook county in the beginning and later bring in the other affected portions of Illinois and adjoining states.

It would be more difficult, in Professor Merriam's opinion, to obtain national consent to a plan of city statehood for Chicago than to secure state consent. Although a state may be divided under the federal Constitution, and at least one state has been divided (Virginia), Congress would be disinclined to give its approval to the proposition because of a fear that it would lead to similar requests from other metropolitan regions, and to a reconsideration of the entire broad problem of the construction of the Union. The smaller states and rural areas would oppose it particularly. Still, a broad appeal to justice for the urban areas might not go unheeded. The plan for new states requires only a majority vote in Congress, and the proposal may be approved, if unopposed by Illinois. The metropolitan regions will wield increasing influence in Congress, and will press in it the claims of urban territories. "It is highly probable that within this generation the whole problem of the relation of the Union to the states will be reconsidered, and in that day of reconsideration the metropolitan region may well find a prominent position."

In considering this whole problem of metropolitan regions, says Professor Merriam, "it is important to take a forward look at the actual trends of American government." We may anticipate changes in the near future in the direction of "the interpenetration of industry and government and the interpenetration of modern scientific techniques of behaviour control and government." The relationship in such fields, he maintains, will be closer between the city and the nation than between city and county or between city and state. "Urban industrial problems are more likely to be understood, and appreciated with less suspicion and more sympathy, by the national government than by the states." In two decades, two-thirds of the country's population will be found in cities, and more than half of it in the larger metropolitan regions. Cities will be forming formidable blocks in Congress and in national nominating conventions, and will have the ear of the party, of its presidential candidates, and of the President himself. "It is not urbanism that is in danger of being left behind politically in the new organization of national forces." It is ruralism, intrenched in the state legislatures, that is in this danger.

These are bold ideas, but they have behind them solid facts. They are prophetic in nature, and provide the vision essential for an intelligent attack upon this problem of metropolitan regions anywhere in the country.

Professor Merriam and his associates are not discouraged by the fact that the movement toward the integration of government in the Chicago

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region seems to make slow progress. "Time seems to be on the side of the Greater City, its unification and organization," they assert confidently—"time and the trend of the social and economic conditions which are the material out of which political forces and forms are developed." They are cognizant of the fact that the suggestions advanced by them may not be fool-proof, and are not inclined to find fault with citizens unwilling to accept them. "The present situation," they observe wisely, requires calm and intelligent discussion of the admittedly serious problem of the government of Chicago." Out of common consideration of the problem, they readily concede, "other and better plans may emerge." A local and parochial attitude must give way to a broader view. If it does not, Chicago will crumble "into a pile of petty municipalities ringed around a central area with waning numbers and power."

Griffenhagen and Associates have presented a very different kind of study. First of all, they have limited it to a consideration only of the Chicago-Cook county area. Secondly, they have designedly avoided all discussion of political, social, and economic factors affecting the situation, and have confined themselves to a strictly engineering study of the structural organization of government in the territory. Thirdly, they have prepared their report for legislators and administrators, and not, as the other authors, for the general public. Their report is, consequently, much more technical and narrow in scope, and much less literary in form.

The report, containing some 400 pages, consists of 19 chapters, 17 of which are devoted to discussion of the organization of the various functions of government in the territory, while two are of general nature. The document is rich in factual material and critical and constructive thought, and constitutes a volume which no student of metropolitan government can afford to ignore.

The investigators responsible for this study made a very serious error, however, when they defined the metropolitan area of Chicago as limited for all practical purposes to Cook county. Even if they were right in their contention that it is totally impracticable to attempt to reorganize government across county lines, under the present constitution of the state, they should have considered the situation in the territory back of the county, inasmuch as this territory is a part of the same broad region, and is affected by the same factors of urban growth emanating from the mother city; and they should have framed their plan of reorganization of government in Cook county very definitely with a view to its possible effects on the situation of the region as a whole. By failing to do so, they have very seriously injured their chances of finding a rightful solution, not only for the problem in the region as a whole, but also for that in the narrower territory; for they have lost the broad perspective necessary for the work.

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The study was conducted on a plan of separate examination of the organization of each function of government in the region, and it was more thorough in character than any other investigation ever conducted on the same plan in any other region.

Most of the proposals made by other investigators of the situation have contemplated the enlargement of the functions and territory of the city, and even the absorption by the latter of some or all of the functions of the county government. Griffenhagen and Associates have proposed a totally different solution under which the functions of the county would be expanded at the expense of those of the city and of the other local governments, and some county and local functions would be transferred to the state. The importance of the city government of Chicago under this plan would be greatly diminished.

The state would take over completely the county and city courts, all county and city institutions for the infirm or chronically ill, and the entire county and local election machinery. It would establish a department of local government accounts for the improvement of municipal finance generally in the state, and a metropolitan board of finance, in that department, for the special improvement of municipal financial practices in the metropolitan territory. The county would take over all local public health departments, and all the city hospitals other than those to be taken over by the state. It would absorb most of the local public works activities and practically the entire police administration in the territory, through the instrumentality of two new districts administered by the county board of commissioners. These districts, called, respectively, the Metropolitan Public Works Administration and the Metropolitan Police Administration, would have the same taxing and borrowing powers as other municipal bodies in the state. The fiction of special districts has been resorted to by the authors of this study for the reason, apparently, that the taxing and borrowing powers of the county, as defined by the constitution, would be totally inadequate for the financing of these activities.

The Metropolitan Public Works Administration would be composed of (1) a bureau of highways, which would take charge of the construction and maintenance of all arterial roads in incorporated territories and of roads generally in unincorporated areas, all bridge construction and maintenance everywhere, and all snow removal work; (2) a bureau of water supply, which would take over all local water supplies and develop and administer a unified water supply for the entire territory; (3) a bureau of sanitation, which would absorb the sanitary district and take over the construction and maintenance of all major sewers and all sewage-treatment plants in the area; (4) a bureau of parks, which would assume control over all forests and parks of more than twenty acres in extent, all boulevards and parkways, and most of the recreational facilities main-

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tained in parks, throughout the entire area; and, finally, (5) a bureau of planning and zoning.

The Metropolitan Police Administration would take over the police department of Chicago and the police forces of all of the other municipalities in the county. These other municipalities would be allowed to maintain supplementary police forces, which, however, would be subject to the central command.

The organization of fire protection would be left undisturbed in the hands of the municipalities, since the advantages to be obtained by centralization of this function were found to be insufficient to justify a change. The principal change proposed in the field of educational administration involves the consolidation of school districts and the reduction of the total number of them in the county outside of Chicago from 201 to 25.

Under the proposed arrangement, the total number of local governments in the county would be reduced from 438 to 130—mainly through the consolidation of school districts and the abolition of townships and various special districts. The activities of the municipal corporation of Chicago would be cut to less than half of their present scope. Those of the county, on the other hand, would be expanded to two or three times their present dimensions. The city of Chicago, and for that matter all municipal governments, would be left in possession of relatively few functions. As rightly observed by Professor Merriam and his collaborators in their joint work, the Griffenhagen plan would in effect constitute annexation of most of the functions of the local governing bodies, but without their consent as in the case of ordinary territorial annexation.

The major criticism that may be advanced against this proposal is that it would weaken the most vital organ of the region, i.e., the city of Chicago, as a political entity, and substitute for it as a dominant entity in the region the county—an agency which is much more diffuse in character. The reviewer is inclined to agree with Professor Merriam's conclusion: "This plan . . . would have the fatal defect . . . of setting up two powerful and competing governments, Chicago and Cook county. In this sense, it might create diffusion and rivalry of authority rather than smoothness of governmental operation. The smaller cities would be left with rudimentary functions, over against two competing giants, about equally matched. The advantages of centralization in some functions might be more than offset by this dual system of control, under which it might be difficult to concentrate either power or responsibility. The one large, central core of power and responsibility, namely, the city of Chicago, would be broken up in this process, in the hope that out of the fragments might be constructed a new Chicago. In the long run, we may be sure the city will survive and furnish the rallying point for the metropolitan area."

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The principal value of both studies here reviewed lies in the fact that they present a very convincing picture of the palpably unsatisfactory organization of government in the metropolitan region of Chicago, along with a number of constructive suggestions for improvement which are worthy of serious consideration. The circumstance that these suggestions may not be fool-proof is of relatively slight moment. The crying need in the Chicago region, as well as in all other metropolitan regions in this country today, is not for a perfect plan of fundamental reorganization of government in the region, but for a recognition by the citizens thereof that such a reorganization is necessary. When such realization makes its appearance, a plan will be developed which will fit the conditions of the particular region, and will be put to work.

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Proposals for Reorganization of the Government of the City of New York.[1] It is thirty-two years since New York City has had any substantial revision of its charter. Never throughout this period has the time seemed more propitious for charter revision. The demand is coming from two separate, if not wholly distinct, directions. On the one hand, we have the perennial demand for reform accentuated at the present moment by a feeling on the part of taxpayers, large and small, that substantial renovating of the city's government is imperative. For ten years, many of these groups have been insisting that they could not afford to pay the taxes which the city was imposing upon them. Many at the present moment actually are unable to pay these taxes.

The second and more potent impetus to reform is coming from a wholly new direction, namely, the bankers. In the carefree days of the last decade, the bankers had no hesitation in handling city bonds because it was so easy to resell them. The market is now unenthusiastic about city bonds, and the bankers feel that they must exercise greater caution in purchasing city issues.

The mandate of the Joint Legislative Committee to Investigate the Affairs of the City of New York directed it to inquire into the administration of the various departments of the city government, and to propose remedial legislation. Though most of the Committee's time and money were spent in probing into misconduct of various city officials, the series of hearings came to a close with the testimony of various students of city government, including ex-Governor Smith, Acting Mayor McKee, Henry

[1] *Final Report in the Matter of the Investigation of the Departments of the Government of the City of New York, by Samuel Seabury; Report to the Legislature of the Joint Legislative Committee to Investigate the Affairs of the City of New York; New York Herald-Tribune,* Jan. 16, 1933.

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Bentley, and President Butler of Columbia University. Judge Seabury, as counsel to the Committee, then prepared a report of his own recommendations for constructive changes in the city's government, which he submitted on December 27 to the Committee. The Committee had appointed a subcommittee to write its own report, which was made public on January 9. Meanwhile, the new mayor, John P. O'Brien, appointed a committee to prepare a counter-reformation. In his inaugural address on January 3, he listed eleven proposed changes, and promised that more would be forthcoming.

The city, therefore, had before it three series of proposals. It is interesting to note that there were some matters in respect to which all three were in agreement. It is agreed, for example, that the number of city departments should be reduced, although Mayor O'Brien proposed fewer consolidations than Judge Seabury or the Joint Legislative Committee. It is agreed that the city needs an executive budget and a capital budget, and that the Sinking Fund Commission should be abolished and its duties transferred to the Board of Estimate. This was about as far as Mayor O'Brien was able to go.

The report of Judge Seabury as counsel to the Committee and the report which the Committee itself adopted were in complete or substantial agreement on a rather wider range of matters. Both favored a small council, the Committee suggesting 15 and the counsel 21 members. Both proposed that this council be elected by a system of proportional representation, though the Committee favored election by the Hare system from two large districts, seven in one (Manhattan and the Bronx) and eight in the other (Brooklyn, Queens, and Richmond); and its counsel favored election within the boroughs with a fixed quota of 50,000. Judge Seabury, who had appeared sympathetic to the city manager plan, rejected it in making his final recommendations, and he and the Committee recommended that the mayor and the controller be elected at large. Both advocated that the council elect its own chairman, and that this chairman succeed to the office of mayor in the event of a vacancy. Both proposed to abolish or consolidate the various county offices in the five counties into which New York City is divided, and both agreed that legislation should be enacted restricting the political activity of city employees. Finally, both proposed that a simple, or "skeleton," charter be adopted, and that this charter be submitted to a referendum of the people in the spring of the present year in order that the November elections might take place under it, and that the new scheme go into effect on January 1, 1934.

The only point of significant difference between the two proposals is that the Committee favored the retention of borough government while Judge Seabury proposed to abolish it. The Committee recommended, however, that the borough presidents should not be members of the city

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council, and that the boroughs, which would be given charge of street pavements, street cleaning, sewers, and the care of parks, be required to meet their own costs through a borough tax, added to and collected with the city tax. Borough government originated from the fact that Greater New York was achieved in 1894 through a consolidation of the then independent city of Brooklyn and the counties of Queens and Richmond with the old city of New York (Manhattan). Borough government has never worked especially well. The original charter enacted for the greater city in 1897 was changed four years later to reduce the power of the boroughs because of scandals that had arisen in borough administration. A considerable number of borough presidents have been involved in scandals, and four either were removed by the governor or resigned while under investigation. There is much objection to the fact that the borough presidents are members of the Board of Estimate, and vote the appropriations which they are to spend in their boroughs. The proposal of the Committee is to remove the borough presidents from the new city council and compel the borough to provide for its own expenses. This is regarded as something of a political compromise, but though borough government has never given complete satisfaction, there is something to be said for experimenting with it awhile longer before completely abandoning it. The boroughs in New York are quite large enough to operate economically. The borough of Brooklyn, for example, is larger than the city of Philadelphia, both in area and in population.

The only other respect in which the official Committee report and Judge Seabury's report as counsel were at variance was with regard to the municipal civil service commission. Judge Seabury proposed that the members of this commission be appointed by the mayor from a panel of nominees selected by the presidents of a group of universities and colleges in the city. The Committee was content to have the mayor appoint them, as he now does, on his own responsibility.

The official Committee report goes much farther than Judge Seabury in recommending improvements in the city's fiscal matters. It insists that the city should present fuller information as to the nature and extent of its activities in preparing its budget, should estimate more carefully its actual revenues, and should make provision for tax deficiencies and delinquencies. Judge Seabury's report recommended that the city be prohibited from investing sinking fund moneys in short-term notes. The Committee, on the other hand, suggested that the city be required to purchase its own securities when they were selling below par in the market rather than make new issues to the sinking funds. Mayor O'Brien proposed that the city resort to serial bonds and obviate the need for sinking funds. It would be necessary, however, to have sinking funds for the next fifty years until the present long-term indebtedness is retired.

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The Committee report proposed substantial improvement in the city's procedure for granting bus franchises, a matter which had occasioned some of the scandals into which the Committee delved.

The Seabury report was accompanied by the text of a proposed charter which was introduced in the state senate by Senator Desmond.[2] Assemblyman Moffat shortly afterwards introduced a bill embodying the Committee report, which was largely his work.[3] A group of civic organizations sponsored a proposal to retain the present Board of Aldermen with its existing powers and limitations, but with election of the members by a system of proportional representation.[4] The theory behind this was that the crucial thing is the improvement of the council, which proportional representation alone would secure, and that under home-rule power all of the rest could be accomplished by such a council. It also avoided all dissension concerning other matters to be included in or omitted from a new charter. Mr. Moffat also introduced a proposal to amend the city home rule law so as to permit the initiation of the question of charter revision in the city by petition of fifteen per cent of the local electorate in any city of the state, but in no case more than 30,000.[5] In many ways, this is the most practical proposal, since, being an amendment to the home rule law, it required merely a majority vote. Such an amendment had been urged at last year's session of the legislature when the Republicans were in control of both houses. Had it been enacted then, the city would now be much farther on the road to a new charter.

A group of civic leaders urged Governor Lehman to give his support to this proposal. The governor endorsed the idea of a petition for a referendum, but insisted that New York City should be required to have the same fifteen per cent which was being proposed for other cities in the state (approximately 300,000 names), and he objected to the additional expense which a special election would entail.[6] The civic organizations reluctantly consented to modification of the bill to meet the governor's proposals, only to find that the up-state Republican leaders were less enthusiastic about a bill which the governor would sign and which would permit the initiation of charter revision in up-state cities.

The enactment of a new charter for New York City is no longer the simple matter that it was prior to the adoption of the home rule amendment in New York State in 1923. That amendment sought to transfer to the city all power with respect to its property, affairs, and government. The state legislature could deal with these matters only by a statute

[2] *Sen. Int.*, 796.
[3] *Assemb. Int.*, 1824.
[4] Proposal not yet introduced.
[5] *Assemb. Int.*, 1587.
[6] See *New York Times*, March 22, 1933.

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operating uniformly upon the cities of the state in both its details and its effect; or upon a message from the governor declaring an emergency to exist, could enact special legislation by a two-thirds vote in each house. Such a charter, however, as the Committee or its counsel proposed would have required this latter procedure, and, once enacted in this manner, could have been amended only by a similar procedure. The advocates of charter revision were, therefore, confronted with a dilemma. Home rule had been voted a decade earlier to free the city from the hampering control of the state legislature. The city was now solidly in the control of a party organization that refused to make any fundamental change in the city's government. The state legislature could act only by a two-thirds majority, which would have to include the votes of at least half of the city members belonging to the same dominant party organization. For a time it appeared as though the bankers might be enlisted in this cause and compel the Tammany organization to accept some of the changes which the Committee and Judge Seabury proposed, just as they had compelled the city to make a $113,000,000 reduction in its budget. But they insisted that they did not know enough about the conduct of the city's affairs to undertake to say how its charter should be enacted. And so the golden opportunity to amend New York City's charter was lost, and the reformers who ten years back had wrung home rule from a reluctant political group now found it used to thwart the most promising reform effort of a generation.

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